

FEDERAL REGISTER

VOLUME 25

1934

NUMBER 251

Washington, Wednesday, December 28, 1960

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Office of Civil and Defense Mobilization

Effective upon publication in the FEDERAL REGISTER, paragraph (p) of § 6.363 is revoked.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] DAVID F. WILLIAMS,
Director, Bureau of Management Services.

[F.R. Doc. 60-11973; Filed, Dec. 27, 1960; 8:45 a.m.]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Lemon Regulation 877, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as

amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b) (1) (i), (ii) and (iii) of § 953.984 (Lemon Regulation 877, 25 F.R. 12948) are hereby amended to read as follows:

- (i) District 1: 37,200 cartons;
- (ii) District 2: 153,450 cartons;
- (iii) District 3: Unlimited movement.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 22, 1960.

FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-12036; Filed, Dec. 27, 1960; 8:50 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following miscellaneous amendments have been made to this chapter:

SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND SERVICEMEN'S MORTGAGE INSURANCE

PART 222—MUTUAL MORTGAGE INSURANCE; RIGHTS AND OBLIGATIONS OF MORTGAGEE UNDER THE INSURANCE CONTRACT

Section 222.155 is amended to read as follows:

§ 222.155 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the mortgage was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate	On or after—	Prior to—
Percent		
3¾%	Jan. 1, 1959	July 1, 1959
4½%	July 1, 1959	Jan. 1, 1961
3¾%	Jan. 1, 1961	

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

SUBCHAPTER D—MULTIFAMILY AND GROUP HOUSING INSURANCE

PART 233—RENTAL HOUSING INSURANCE; RIGHTS AND OBLIGATIONS OF MORTGAGEE UNDER INSURANCE CONTRACT

Section 233.9(a) (1) (vii) is amended to read as follows:

§ 233.9 Insurance benefits.

(a) * * *

(1) * * *

(vii) Bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date of initial insurance endorsement of the mortgage, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate	On or after—	Prior to—
Percent		
3¾%	Jan. 1, 1959	July 1, 1959
4½%	July 1, 1959	Jan. 1, 1961
3¾%	Jan. 1, 1961	

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713)

SUBCHAPTER M—MILITARY AND ARMED SERVICES HOUSING MORTGAGE INSURANCE

PART 293a—ARMED SERVICES HOUSING INSURANCE; RIGHTS AND OBLIGATIONS OF THE MORTGAGEE UNDER THE INSURANCE CONTRACT

Subpart A—Military Personnel

Section 293a.9(a) (1) (vii) is amended to read as follows:

§ 293a.9 Delivery of debentures and certificate of claim.

(a) * * *

(1) * * *

(vii) Bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date of initial insurance endorsement of the mortgage, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate	On or after—	Prior to—
Percent		
3¾%	Jan. 1, 1959	July 1, 1959
4½%	July 1, 1959	Jan. 1, 1961
3¾%	Jan. 1, 1961	

(Sec. 807, 69 Stat. 651; 12 U.S.C. 1748f. Interprets or applies sec. 803, 69 Stat. 647, as amended; 12 U.S.C. 1748b)

Issued at Washington, D.C., December 22, 1960.

NORMAN P. MASON,
Acting Federal Housing Commissioner.

[F.R. Doc. 60-12041; Filed, Dec. 27, 1960;
8:51 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 60-KC-77]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

Modification

On October 8, 1960, a notice of proposed rule making was published in the *FEDERAL REGISTER* (25 F.R. 9686) stating that the Federal Aviation Agency proposed to designate a west alternate to VOR Federal airway No. 15 between Bismarck, N. Dak., and Minot, N. Dak.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, the following action is taken:

In the text of § 600.6015 (14 CFR 600.6015, 25 F.R. 5481, 8635) "to the Minot, N. Dak., VOR." is deleted and "to the Minot, N. Dak., VOR, including a W alternate via the INT of the Bismarck VOR 333° True and the Minot VOR 197° True radials." is substituted therefor.

This amendment shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 20, 1960.

D. D. THOMAS,
*Director, Bureau of
Air Traffic Management.*

[F.R. Doc. 60-11979; Filed, Dec. 27, 1960;
8:45 a.m.]

[Airspace Docket No. 60-KC-69]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

Modification

On September 29, 1960, a notice of proposed rule making was published in the *FEDERAL REGISTER* (25 F.R. 9294) stating that the Federal Aviation Agency proposed to modify the standard west alternate of VOR Federal airway No. 67 between Mason City, Iowa, and Rochester, Minn.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, the following action is taken:

In the text of § 600.6067 (14 CFR 600.6067) "Mason City, Iowa, omnirange station; to the Rochester, Minn., omnirange station, including a west alternate." is deleted and "Mason City, Iowa, VORTAC to the Rochester, Minn., VOR, including a W alternate via the INT of the Mason City VORTAC 023° True and the Rochester VOR 243° True radials." is substituted therefor.

This amendment shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 20, 1960.

D. D. THOMAS,
*Director, Bureau of
Air Traffic Management.*

[F.R. Doc. 60-11978; Filed, Dec. 27, 1960;
8:45 a.m.]

[Airspace Docket No. 60-WA-265]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification of Federal Airways and Associated Control Areas

The purpose of these amendments to §§ 600.6035, 600.6115, and 601.6115 of the regulations of the Administrator is to modify VOR Federal airways No. 35 and No. 115 and associated control areas.

Victor airway No. 35 extends from Key West, Fla., to Pittsburgh, Pa., and from Johnstown, Pa., to Syracuse, N.Y. The continuity of this airway is broken between Johnstown and Pittsburgh. The Federal Aviation Agency (FAA) is revoking the segment of V-35 between Charleston, W. Va., and Pittsburgh and extending V-35 from Charleston to Johnstown via the Clarksburg, W. Va., VOR, the Morgantown, W. Va., VORTAC, and the Indian Head, Pa., VOR. This segment will coincide with VOR Federal airway No. 106.

Victor airway No. 115 extends in part from Crestview, Fla., to Charleston. The FAA is extending this segment of Victor 115 from Charleston to Pittsburgh via the Parkersburg, W. Va., VOR. This segment will coincide with the segment of Victor 35 between Charleston and Pittsburgh that is being revoked herein. These modifications will not involve the designation of any additional navigable airspace.

Since these amendments impose no additional burden on any person, notice and public procedure hereon are unnec-

essary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), the following actions are taken:

1. In the text of § 600.6035 (14 CFR 600.6035, 25 F.R. 583, 10049) "Parkersburg, W. Va., VOR; INT of the Parkersburg VOR 060° and the Pittsburgh VOR 223° radials; to the Pittsburgh, Pa., VOR. From the Johnstown, Pa., VOR via the" is deleted and "INT of the Charleston VORTAC 051° True and the Elkins, W. Va., VORTAC 264° True radials; Clarksburg, W. Va., VOR; Morgantown, W. Va., VORTAC; Indian Head, Pa., VOR; Johnstown, Pa., VOR;" is substituted therefor.

2. In § 600.6115 (14 CFR 600.6115) the following changes are made:

(a) In the caption "to Charleston, W. Va." is deleted and "to Pittsburgh, Pa." is substituted therefor.

(b) In the text "to the Charleston, W. Va., VOR" is deleted and "Charleston, W. Va., VORTAC; Parkersburg, W. Va., VOR; INT of the Parkersburg VOR 060° True and the Pittsburgh, Pa., VORTAC 223° True radials; to the Pittsburgh VORTAC." is substituted therefor.

3. In the caption of § 601.6115 (14 CFR 601.6115) "to Charleston, W. Va." is deleted and "to Pittsburgh, Pa." is substituted therefor.

These amendments shall become effective 0001 e.s.t., February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 20, 1960.

D. D. THOMAS,
*Director, Bureau of
Air Traffic Management.*

[F.R. Doc. 60-11980; Filed, Dec. 27, 1960;
8:45 a.m.]

[Airspace Docket No. 60-WA-174]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification of Control Zone

On September 14, 1960, a notice of proposed rule making was published in the *FEDERAL REGISTER* (25 F.R. 8825) stating that the Federal Aviation Agency (FAA) proposed to modify the Peru, Ind., control zone.

As stated in the notice, the Peru, Ind., control zone is presently designated within a 5-mile radius of Bunker Hill Air Force Base, and within 2 miles either side of the extended centerline of the Bunker Hill AFB northeast-southwest runway extending to a point 9 miles southwest of the end of the runway.

The FAA proposed the following:

1. Designate a control zone extension northeast of the Bunker Hill AFB on the 042° True radial of the TVOR (Lat. 40°38'28" N, Long. 86°09'02" W) ex-

tending from the 5-mile radius zone to 12 miles northeast of the TVOR.

2. Designate a control zone extension within a 5-mile radius of the Kokomo, Ind., Municipal Airport; and within 2 miles either side of the 131° True radial of the Kokomo VOR extending from the Kokomo 5-mile radius zone to 12 miles southeast of the VOR.

3. Redesignate the present southwest control zone extension by realigning it on the 220° True radial of the Bunker Hill AFB TACAN, and extending it from the 5-mile radius zone to 10 miles southwest of the TACAN (Lat. 40°38'58" N, Long. 86°08'00" W).

4. Designate control zone extensions southwest of the Bunker Hill AFB on the 226° and 231° True radials of the TVOR extending from the 5-mile radius zone to 12 miles southwest of the TVOR.

These modifications would provide protection for aircraft executing prescribed instrument approach procedures to the Bunker Hill Air Force Base and the Kokomo Municipal Airport during instrument flight rule weather conditions.

Four comments were received regarding the proposed amendment. The Aircraft Owners and Pilots Association (AOPA) questioned the need for a control zone extension based on the TACAN since they did not find a published approach for the Bunker Hill AFB TACAN. AOPA further stated that this extension appeared excessive and requested a review of the need for this particular control zone extension. Two TACAN approaches are published for Bunker Hill AFB (JAL-470-TACAN 1 and 2). These approaches specify that approaching aircraft cross the 8 nautical mile gate at 1,487 feet above the elevation of the airport. Since it is not possible to determine the exact point an aircraft will descend below 1,000 feet above the terrain between the 8 nautical mile gate and the airport, the FAA considers it necessary in this instance to extend the control zone extension to the approach gate which, at 8 nautical miles from the approach end of the runway, is established in accordance with the U.S. Manual of Criteria for Standard Instrument Approach Procedures.

The Aeronautics Commission of Indiana, USAF, and Air Transport Association of America endorsed the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated herein and in the notice, § 601.2378 (14 CFR 601.2378) is amended to read:

§ 601.2378 Peru, Ind., control zone.

Within a 5-mile radius of Bunker Hill Air Force Base, Peru, Ind., (Lat. 40°39'38" N, Long. 86°08'31" W); within 2 miles either side of the 042°, 226°, and 231° True radials of the Bunker Hill AFB TVOR extending from the 5-mile radius zone to 12 miles NE and SW of the

TVOR; within 2 miles either side of the 220° True radial of the Bunker Hill AFB TACAN, extending from the 5-mile radius zone to 10 miles SW of the TACAN; within a 5-mile radius of the Kokomo, Ind., Municipal Airport (Lat. 40°31'43" N, Long. 86°03'33" W); and within 2 miles either side of the 131° True radial of the Kokomo VOR extending from the Kokomo 5-mile radius zone to 12 miles SE of the VOR.

This amendment shall become effective 0001 e.s.t. March 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 20, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-11977; Filed, Dec. 27, 1960; 8:45 a.m.]

[Airspace Docket No. 60-WA-238]

PART 602—ESTABLISHMENT OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN THE CONTINENTAL CONTROL AREA

Modification of Coded Jet Route

On October 14, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 9872) stating that the Federal Aviation Agency proposed to modify the segment of VOR/VORTAC jet route No. 13 between Cheyenne, Wyo., and Great Falls, Mont.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, the following action is taken:

In the text of § 602.513 (14 CFR 602.513) "Casper, Wyo., VOR; Livingston, Mont., VOR" is deleted and "Crazy Woman, Wyo., VOR; Billings, Mont., VOR" is substituted therefor.

This amendment shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 20, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-11976; Filed, Dec. 27, 1960; 8:45 a.m.]

[Airspace Docket No. 60-WA-228]

PART 602—ESTABLISHMENT OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN THE CONTINENTAL CONTROL AREA

Modification of Coded Jet Routes

On October 4, 1960, a notice of proposed rule making was published in the

FEDERAL REGISTER (25 F.R. 9474) stating that the Federal Aviation Agency proposed to modify VOR/VORTAC jet routes No. 24, 29 and 32.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, the following actions are taken:

1. In the text of § 602.524 (14 CFR 602.524) "Garden City, Kans., VOR; Salina, Kans., VOR; Kansas City, Mo., VOR; St. Louis, Mo., VOR; Indianapolis, Ind., VOR; INT Indianapolis 113° and Charleston 291° radials; Charleston, W. Va., VOR to the Flat Rock, Va., VOR." is deleted and "Garden City, Kans., VORTAC; INT of Garden City VORTAC 066° True and the Salina, Kans., VORTAC 257° True radials; Salina VORTAC; Kansas City, Mo., VORTAC; St. Louis, Mo., VORTAC; Indianapolis, Ind., VORTAC; INT of the Indianapolis VORTAC 120° True and the Charleston, W. Va., VORTAC 284° True radials; Charleston VORTAC to the Flat Rock, Va., VORTAC." is substituted therefor.

2. In the text of § 602.529 (14 CFR 602.529) "Evansville, Ill., VOR; Dayton, Ohio, VOR;" is deleted and "Evansville, Ill., VORTAC; INT of the Evansville VORTAC 052° True and the Dayton, Ohio, VORTAC 231° True radials; Dayton VORTAC;" is substituted therefor.

3. In the text of § 602.532 (14 CFR 602.532) "Aberdeen, S. Dak., VOR to the Duluth, Minn., VOR." is deleted and "Aberdeen, S. Dak., VOR; INT of the Aberdeen VOR 067° True and the Duluth, Minn., VOR 258° True radials to the Duluth VOR." is substituted therefor.

These amendments shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 20, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-11975; Filed, Dec. 27, 1960; 8:45 a.m.]

[Airspace Docket No. 60-AN-1]

PART 608—RESTRICTED AREAS

Modification of a Restricted Area/Military Climb Corridor

On October 1, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 9419) stating that the Federal Aviation Agency proposed to modify the Anchorage, Alaska (Elmendorf AFB), Restricted Area/Military Climb Corridor (R-561) (Chart-Alaska RF).

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 8005), and for the reasons stated in the notice, the Anchorage, Alaska (Elmendorf AFB) Restricted Area/Military Climb Corridor (R-561) (Chart-Alaska RF) in § 608.61 Alaska (24 F.R. 3230), is amended to read:

1. Anchorage, Alaska (Elmendorf AFB), Restricted Area/Military Climb Corridor (R-561) (Chart-Alaska RF).

Description. That area centered on the 296° True radial of the Elmendorf Air Force Base TACAN, extending from 3 statute miles from the west end of Elmendorf AFB runway 23 to 25 statute miles from the west end of runway 23, and having a width of 2.145 statute miles at the beginning and expanding uniformly to a width of 4.3 statute miles at the outer extremity.

Designated altitudes.

3,000' MSL to 27,000' MSL from 3 statute miles west of the west end of runway 23 to 5 statute miles west of the west end of runway 23.

5,000' MSL to 27,000' MSL from 5 to 7 statute miles west of the west end of runway 23.

7,000' MSL to 27,000' MSL from 7 to 12 statute miles west of the west end of runway 23.

10,000' MSL to 27,000' MSL from 12 to 17 statute miles west of the west end of runway 23.

13,000' MSL to 27,000' MSL from 17 to 22 statute miles west of the west end of runway 23.

16,000' MSL to 27,000' MSL from 22 to 25 statute miles west of the west end of runway 23.

Time of designation. Continuous.

Controlling agency. Anchorage Approach Control, FAA

This amendment shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 20, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-11981; Filed, Dec. 27, 1960; 8:45 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[9th Gen. Rev. Export Regs., Amdt. 46¹]

PART 371—GENERAL LICENSES

Miscellaneous Amendments

1. Section 371.52 *Supplement 2; Commodities destined to Poland (including Danzig) which are excepted from*

¹ This amendment was published in Current Export Bulletin 843, dated December 15, 1960.

General License GRO is amended by adding the following commodities to the list of commodities:

Schedule B No.	Commodity
61875---	Steel storages tanks, lined, n.e.c.
61936---	Gas cylinders (all metal and all sizes), unfilled.
61995---	Gas storage containers, except iron and steel. ¹

¹ For other items under this Schedule B number which require a validated license for shipments to Poland (including Danzig), see the Positive List (§ 399.1 of this chapter).

2. Section 371.53 *Supplement 3; Commodities destined to the Dominican Republic which are excepted from General License GRO* is amended by substituting the following entries for entries presently on the list of commodities:

Schedule B No.	Commodity Description
70922---	Starting, lighting, and ignition equipment, and specially fabricated parts and accessories, n.e.c., except battery clips; dimmer switches; ignition locks; sockets; spark plug parts; starter springs; switches; terminals; and wiring connectors. ¹
79148---	Parts listed in footnote 2 below, specially fabricated, ordered and invoiced as original equipment for passenger, commercial, and military vehicles previously shipped. ^{1,2}
79168---	Leaf springs, and spring leaves, for replacement.
79261---	Parts listed in footnote 2 below, for assembly. ^{1,2}
79262---	Parts listed in footnote 2 below, for spares, replacement, or manufacture into larger components. ^{1,2}
79277---	Parts listed in footnote 2 below, for military automotive vehicles. ^{1,2}

¹ For other items under this Schedule B number which require a validated license for shipments to the Dominican Republic see the Positive List (§ 399.1 of this chapter).

² The following parts and accessories are included in this list under Schedule B Nos. 79148 through 79277: axle shafts; ball and socket joints; brake drums, carburetors; clutch plates; clutches; connecting-rod bearings; crankshaft bearings; crank shafts; cylinder blocks; cylinder heads; diesel fuel injection equipment; differential gears; differential units; drive gears; drive shafts; engine bearings; engine parts; engine rebuilding packages; engines; engine valve assemblies; four-wheel drive conversion units; fuel pumps; gear shift units; gears, rear end; knee-action springs (helical or coil); leaf springs; main bearings; needle valves; piston rings; pistons; propeller shafts; rear axle housings; spring leaves; steering apparatus; third axle assemblies; timers; timing gears; torque converters; transmission gears; transmission units; universal joints; water pumps; and wheels.

This amendment shall become effective as of December 23, 1960, except that with respect to shipment of any commodities removed from general license as a result of this amendment which were on dock for lading, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to actual orders for export prior to 12:01 a.m., December 23, 1960, may be exported under the previous general license provisions up to and including January 16, 1961. Any such shipment not laden aboard the

exporting carrier on or before January 16, 1961 requires a validated license for export.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023. E.O. 9630, 10 F.R. 12245, 3 CFR, 1945 Supp., E.O. 9919, 13 F.R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director, Bureau of
Foreign Commerce.

[F.R. Doc. 60-12024; Filed, Dec. 27, 1960; 8:49 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

NYLON RESINS AS COMPONENTS OF EQUIPMENT USED IN PROCESSING (NOT PACKAGING) FOOD

The Commissioner of Food and Drugs, having evaluated the data submitted in petitions filed by E. I. duPont deNemours and Company, Wilmington, Delaware, and other relevant material, has concluded that the following food additive regulations should issue in conformance with section 409 of the Federal Food, Drug, and Cosmetic Act with respect to certain nylon resins to be used as components of food-processing equipment. Therefore, pursuant to the provisions of the act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625): *It is ordered*, That the food additive regulations (21 CFR Part 121) be amended by adding thereto the following new sections:

§ 121.2502 66 Nylon resin.

66 nylon resin (polyhexamethylene adipamide), as defined in paragraph (b) of this section and subject to the conditions prescribed in this section, may safely be used to produce articles (except food packages) intended for use in processing and handling food.

(a) 66 nylon is manufactured by the condensation of hexamethylenediamine and adipic acid under controlled conditions whereby it meets the specifications and tests prescribed in paragraphs (b) and (c) of this section.

(b) *Specifications*—(1) *Qualitative tests*—(i) *Infrared identification*. 66 nylon has characteristic infrared spectra useful for identification purposes.

(ii) Other properties for identifying 66 nylon are as follows:

(a) Specific gravity----- 1.14±0.015
Determined by weighing a 1-gram to 5-gram specimen first in air and then in freshly boiled distilled water at 23° C. ±2° C.

(b) Melting point..... 475° F.—495° F.
The melting point is determined as follows: Use a hot-stage apparatus. The use of crossed nicol prisms with a microscope hot stage and reading of the thermometer when the birefringence disappears increase the accuracy. If the crossed nicol apparatus is not available, use the lowest temperature at which the sample becomes transparent or the sharp edges or corners of the sample become rounded as the melting point. In case of doubt as to the onset of melting, the sample is prodded with a sharp instrument. If it sticks to the heating block, it is considered to have melted. If the melting point is low, dry the sample in an oven at 85° C. for 24 hours in a nitrogen atmosphere.

(c) Solubility in boiling 4.2N Dissolves in HCl. 1 hour.
The test is run on a sample approximately the size of a 1/8-inch cube in at least 25 milliliters of 4.2N HCl.

(2) Extractability limitations using the method described in paragraph (c) of this section.

	Percent
66 nylon:	
Water	1.0
95 percent ethyl alcohol.....	1.0
Ethyl acetate.....	0.1
Benzene	0.1

(c) Procedure for determining the material extractable from nylon resins by selected solvents. (1) The granules of nylon molding powders are in the proper form for the extraction tests described in this section. Samples of fabricated articles such as pipe, fittings, and other components must be cut to approximately the size of the molding powder. This can be done conveniently by using a small-scale commercial plastics granulator and cutting the sample through a screen having 1/4-inch mesh. Fine particles should be separated from the cut resin by screening through a 20-mesh screen. The material retained on the screen is suitable for the extraction tests.

(2) The organic solvents must be of American Chemical Society analytical reagent grade; distilled water is used. Approximately 100 grams of the prepared sample is weighed to the nearest milligram. The weighed resin is transferred to a 300-milliliter round-bottom flask equipped with a reflux condenser. Approximately 100 milliliters of solvent is added to the flask and the contents refluxed gently for 8 hours with a heating mantle. The solvent is then filtered off while still hot, using a Büchner funnel approximately 5 inches in diameter, a suction flask, and a hardened filter paper (Whatman No. 50 or equivalent). The paper is wet with the solvent and a slight suction applied just before starting the filtration. The resin is washed twice with approximately 100-milliliter portions of warm solvent and the combined filtrate and washings are reduced to approximately 25 milliliters by evaporation at reduced pressure (50 millimeters to 100 millimeters of mercury, absolute), heating as necessary. The contents of the flask are transferred to an evaporating dish (which has been held in a vacuum desiccator over anhydrous calcium sulfate until constant weight has been attained). The weight of the solid

residue is determined by difference after holding in a vacuum desiccator over anhydrous calcium sulfate until constant weight has been attained. The percent of solids extracted is calculated by dividing the weight of the solid residue by the weight of the sample and multiplying by 100.

§ 121.2503 610 Nylon resins.

610 nylon (polyhexamethylene sebacamide) as defined in paragraph (a) of this section and subject to the further conditions prescribed in this section, may safely be used to produce articles (except food packages) intended for use in processing and handling food.

(a) 610 nylon is manufactured by the condensation of hexamethylenediamine and sebacic acid, under controlled conditions, whereby it meets the specifications and tests prescribed in paragraphs (b) and (c) of this section.

(b) Specifications—(1) Qualitative tests—(i) Infrared identification. 610 nylon has characteristic infrared spectra useful for identification purposes.

(ii) Other properties for identifying 610 nylon:

(a) Specific gravity..... 1.09±0.015
Determined by weighing a 1-gram to 5-gram specimen first in air and then in freshly boiled distilled water at 23° C. ±2° C.

(b) Melting point..... 405° F.—425° F.
The melting point is determined as follows: Use a hot-stage apparatus. The use of crossed nicol prisms with a microscope hot stage and reading of the thermometer when the birefringence disappears increase the accuracy. If the crossed nicol apparatus is not available, use the lowest temperature at which the sample becomes transparent or the sharp edges or corners of the sample become rounded as the melting point. In case of doubt as to the onset of melting, the sample is prodded with a sharp instrument. If it sticks to the heating block, it is considered to have melted. If the melting point is low, dry the sample in an oven at 85° C. for 24 hours in a nitrogen atmosphere.

(c) Solubility in boiling 4.2N Insoluble HCl. after 1 hour.
The test is run on a sample approximately the size of a 1/8-inch cube in at least 25 milliliters of 4.2N HCl.

(2) Extractability limitations.

610 nylon:	Percent
Water	0.25
95 percent ethyl alcohol.....	1.0
Ethyl acetate.....	0.15
Benzene	0.15

(c) Procedure for determining the material extractable from nylon resins by selected solvents is described in § 121.2502(c).

§ 121.2504 66/610 nylon resins.

Copolymer 66/610 nylon, as defined in paragraph (a) of this section and further subject to the conditions prescribed in this section, may safely be used to produce articles (except food packages) intended for use in processing and handling food (except milk).

(a) Copolymer 66/610 nylon is manufactured by polymerizing equal weights of the 66 and 610 monomeric salts under controlled conditions whereby it meets

the specifications and tests prescribed in paragraphs (b) and (c) of this section.

(b) Specifications—(1) Qualitative tests—(i) Infrared identification. Copolymer 66/610 nylon has characteristic infrared spectra useful for identification purposes.

(ii) Other properties for identifying copolymer 66/610 nylon:

(a) Specific gravity..... 1.10±0.015
Determined by weighing a 1-gram to 5-gram specimen first in air and then in freshly boiled distilled water at 32° C. ±2° C.

(b) Melting point..... 375° F.—395° F.
The melting point is determined as follows: Use a hot-stage apparatus. The use of crossed nicol prisms with a microscope hot stage and reading of the thermometer when the birefringence disappears increase the accuracy. If the crossed nicol apparatus is not available, use the lowest temperature at which the sample becomes transparent or the sharp edges or corners of the sample become rounded as the melting point. In case of doubt as to onset of melting, the sample is prodded with a sharp instrument. If it sticks to the heating block, it is considered to have melted. If the melting point is low, dry the sample in an oven at 85° C. for 24 hours in a nitrogen atmosphere.

(c) Solubility in boiling 4.2N Dissolves in HCl. 1 hour.

(2) Extractability limitations.

Nylon copolymer 66/610:	Percent
Water	1.0
95 percent ethyl alcohol.....	1.5
Ethyl acetate.....	0.15
Benzene	0.15

(c) Procedure for determining the material extractable from nylon resins by selected solvents is described in § 121.2502(c).

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c), 72 Stat. 1786; 21 U.S.C. 348)

Dated: December 20, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-12022; Filed, Dec. 27, 1960; 8:49 a.m.]

SUBCHAPTER C—DRUGS

PART 146—GENERAL REGULATIONS
FOR THE CERTIFICATION OF ANTI-
BIOTIC AND ANTIBIOTIC-CON-
TAINING DRUGSAnimal Feed Containing Antibiotic
Drugs

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (23 F.R. 9500, 25 F.R. 5611), the general regulations for the certification of antibiotic and antibiotic-containing drugs (21 CFR 146.26) are amended by adding to paragraph (b) the following new subparagraph (45):

§ 146.26 Animal feed containing penicillin.

(b) * * *

(45) It is intended for use in the prevention and control of cecal and intestinal coccidiosis in chickens caused by *Eimeria acervulina*, *Eimeria brunetti*, *Eimeria maxima*, *Eimeria necatrix*, and *Eimeria tenella*, and for stimulating growth and improving feed efficiency in growing chickens; its labeling bears adequate directions and warnings for such use, including a warning against its use in laying hens; it contains, per ton of feed, not less than 2.4 grams of penicillin and not more than 50 grams of penicillin; and it contains the following quantities of zoalene (3,5-dinitro-o-toluidine), by weight of feed, under the conditions and for the ages of chickens indicated:

Growing conditions	Percent of drug in feed for birds up to 6 weeks of age	Percent of drug in feed for birds from 6-14 weeks of age
Severe exposure to coccidiosis.	0.0125	0.0083-0.0125
Light to moderate exposure to coccidiosis.	0.0083	0.0063-0.0083

The exemption from certification is granted with the further proviso that there has been submitted to the Commissioner, in triplicate, adequate information of the kind described in § 146.7 to establish the safety and efficacy of the article and to guarantee its identity, strength, quality, and purity. The exemption shall expire at the beginning of any act changing the composition or labeling of such drug, or the methods used in and the facilities and controls used for its manufacturing, processing, and packaging, or in its labeling, unless the person who obtains the exemption has submitted to the Commissioner, in triplicate, amended information that describes such proposed changes, and such amendment has been accepted by the Commissioner. Both concentrates and finished poultry feed containing zoalene must comply with all the requirements of § 121.207 of this chapter, including labeling.

Notice and public procedure are not necessary prerequisites to the promulga-

tion of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry, since it relaxes existing requirements, and since it would be contrary to public interest to delay providing for the amendment incorporated in this order.

I further find that animal feed containing antibiotic drugs and conforming with the conditions prescribed in this order need not comply with the requirements of sections 502(1) and 507 of the Federal Food, Drug, and Cosmetic Act in order to insure their safety and efficacy.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: December 19, 1960.

[SEAL]

GEO. P. LARRICK,

Commissioner of Foods and Drugs.

[F.R. Doc. 60-12000; Filed, Dec. 27, 1960; 8:46 a.m.]

Chapter II—Bureau of Narcotics,
Department of the Treasury

[T.D. 60]

PART 302—IMPORTATION AND EX-
PORTATION OF NARCOTIC DRUGS

PART 303—OPIUM POPPIES

PART 304—ADJUDICATION AND
LICENSING

PART 305—OPIATES

PART 307—MANUFACTURING OF
NARCOTIC DRUGS

Miscellaneous Amendments

On pages 11227 to 11235 of the FEDERAL REGISTER of November 26, 1960, there was published a notice of proposed rule making to issue regulations with respect to importation and exportation of narcotic drugs; opium poppies; adjudication and licensing; opiates; and manufacturing of narcotic drugs.

After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted subject to the changes set forth below:

PARAGRAPH 1. Paragraph (b) of § 307.121 is amended by changing the word "was" appearing in the third sentence to read "will be"; by changing the words "has relied", appearing in the fourth sentence to read "will rely", and the word "took" in the same sentence to read "will take".

PAR. 2. Section 307.127 is deleted in its entirety.

Effective date. This Treasury Decision shall become effective January 1, 1961.

[SEAL]

H. J. ANSLINGER,

Commissioner of Narcotics.

Approved: December 22, 1960.

A. GILMORE FLUES,

Acting Secretary of the Treasury.

In Part 302—Importation and Exportation of Narcotic Drugs:

1. Section 302.17 *Exportation* is revised to read as follows:

§ 302.17 *Exportation.*

(a) Except as otherwise provided in paragraph (b) of this section, no person shall in any manner export from or take out of the United States, or cause to be exported or taken out of the United States any narcotic drug, nor shall any carrier receive for exportation, or export, or carry out of the United States any narcotic drug, unless and until a permit, in due form to export the narcotic drug in each instance shall have been issued by the Commissioner.

(b) A pharmaceutical preparation, containing a narcotic drug, conforming to the standards set forth in 26 CFR 151.422 as a Class "M" product may be exported or taken out of the United States without compliance with requirements set forth in §§ 302.17-302.27.

2. Section 302.19 *Foreign import license or permit to be submitted* is amended by changing "legitimate" to read "scientific". As so amended, § 302.19 reads as follows:

§ 302.19 *Foreign import license or permit to be submitted.*

There shall also be submitted with the application any import license or permit (and a translation thereof if in a foreign language) or a certified copy of any such license or permit issued by competent authorities in the country of destination, or other documentary evidence deemed adequate by the Commissioner showing that the merchandise is consigned to an authorized permittee, that it is to be applied exclusively to medical and scientific uses within the country of destination, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the merchandise for medical and scientific uses within such country. Verification by an American consular officer of signatures on foreign import licenses will be necessary if such licenses do not bear the seal of the officer signing them.

In Part 303—Opium Poppies:

3. Section 303.6 *Production in excess of quantities named in licenses* is renumbered § 303.7.

4. Section 303.8 *Issuance of license to manufacture* is revoked and § 303.7 *Application for license to manufacture* is renumbered § 303.8 and is revised to read as follows:

§ 303.8 *License to manufacture.*

Any person who desires to manufacture opium or opium products from opium poppies shall first obtain the required license and quota for the manufacture of a basic class of narcotic drug and be subject to all of the provisions and requirements of the Narcotics Manufacturing Act of 1960 (Pub. Law 86-429, 74 Stat. 55), and the regulations issued pursuant thereto (Part 307 of this chapter). No further manufacturing license shall be required. However, no license to manufacture opium or opium products from opium poppies shall be issued by the Commissioner unless he finds that

the medical and scientific needs of the United States for narcotic drugs are not being or cannot be supplied from crude opium obtained by importation.

5. Section 303.9 *Limitations* is renumbered section 303.6 and is revised to read as follows:

§ 303.6 Limitations.

All licenses to produce opium poppies, issued by the Commissioner, shall be limited to such number, localities, and areas as the Commissioner shall determine to be appropriate to supply the medical and scientific needs of the United States for opium or opium products, with due regard to provision for reasonable reserves. It shall be the policy of the Commissioner, so far as practicable, to confine the production of opium poppies to such areas as will permit efficient and economical enforcement of the narcotic laws and regulations.

In Part 304—Adjudication and Licensing Procedure:

6. Paragraph (g) of § 304.1 is revised to read as follows:

§ 304.1 Adjudication and licensing.

(g) *Functions of the Secretary of the Treasury, or his delegate under Opiates Act.* Under subsection (g) of section 4731 of the Internal Revenue Code of 1954, as amended by section 4(b) of the Narcotics Manufacturing Act of 1960 (Pub. Law 86-429, 74 Stat. 57), the Secretary of the Treasury or his delegate has the function of making a determination, after due notice and an opportunity for public hearing, of what substances shall be an "opiate" as that term is defined in 21 CFR Part 305.

In Part 305—Opiates:

7. Section 305.1 *Hearing; notice* is revised to read as follows:

§ 305.1 Opiate.

(a) *Definition.* The word "opiate" shall mean any drug (as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g))) or other substance found by the Commissioner of Narcotics (after considering the technical advice of the Secretary of Health, Education, and Welfare, or his delegate, on the subject) to have (1) an addiction-forming or addiction-sustaining liability similar to morphine or cocaine; or (2) to be capable of conversion into a drug having such addiction-forming or addiction-sustaining liability with relative technical simplicity and degree of yield as to create a risk of improper use.

(b) *Finding.* Prior to making any finding that a drug or other substance is an "opiate" (as defined in paragraph (a) of this section), the Commissioner of Narcotics shall give due notice of his intention to consider the desirability of making such a finding and afford an opportunity for a public hearing to all interested parties. Not less than twenty days prior to the date set for a hearing, the Commissioner shall cause to be published in the FEDERAL REGISTER a notice setting forth the date, time and place of the proposed hearing. Any person desiring to be heard shall furnish written

notice to the Commissioner not later than twenty days from the date notice of hearing is published in the FEDERAL REGISTER. If no written notice of a desire to be heard shall be received by the Commissioner within such period of twenty days, no hearing shall be held, but the Commissioner shall proceed to make a finding based on all available evidence including pharmacological and clinical tests of the drug. If written notice of a desire to be heard is received by the Commissioner within the prescribed period of twenty days, the hearing will be held in accordance with the original notice. When the Commissioner finds that a drug is an "opiate", he shall proclaim such finding in the FEDERAL REGISTER after which all of the provisions of the Federal narcotic laws shall apply to such drug.

(c) *Termination.* The Commissioner of Narcotics may withdraw any previous finding that a drug or other substance is an "opiate" whenever he determines that such previous finding was erroneous. Such determination shall take effect immediately upon publication in the FEDERAL REGISTER and the particular drug or other substance shall thereupon cease to be an "opiate". The Commissioner may, although he is not bound to, consider any action taken by the World Health Organization pursuant to Article 3 of the 1948 Protocol in withdrawing a drug or other substance previously declared an "opiate".

§ 305.2 [Revocation]

8. Section 305.2 *Procedure* is revoked.

Part 307—Manufacturing of Narcotic Drugs:

9. A new Part 307—*Manufacturing of Narcotic Drugs*, is added to read as follows:

GENERAL PROVISIONS

- | | |
|--------|--------------------------------------|
| Sec. | Hearings. |
| 307.51 | Practice before Bureau of Narcotics. |
| 307.52 | Definitions. |
| 307.53 | Delegation of functions. |
| 307.54 | |

- | | |
|---|--|
| INTERNATIONAL CONTROL OF NARCOTIC DRUGS | |
| 307.61 | Notifications, findings and decisions under 1948 Protocol. |
| 307.62 | Findings by United Nations organs. |
| 307.63 | Withdrawal of narcotic drug from international control. |

BASIC CLASSES OF NARCOTIC DRUGS

- | | |
|--------|--|
| 307.71 | Modification of list of basic classes of narcotic drugs. |
| 307.72 | Establishment of a new basic class of narcotic drug. |

MANUFACTURE OF NARCOTIC DRUGS

- | | |
|--------|--|
| 307.81 | Restrictions on manufacture of narcotic drugs. |
| 307.82 | Omission of a narcotic drug from a basic class. |
| 307.83 | Manufacture for scientific research and testing. |

MANUFACTURERS' LICENSES

- | | |
|--------|--|
| 307.90 | License to manufacture narcotic drugs; generally. |
| 307.91 | Registration as a prerequisite to issuance of license. |
| 307.92 | Requirements for license applications. |
| 307.93 | Action upon applications. |
| 307.94 | Factors governing issuance of licenses. |
| 307.95 | Period of validity of licenses. |
| 307.96 | Assignment or transfer of licenses. |

- | | |
|--------|---|
| Sec. | Warning to licensees for failure to comply. |
| 307.97 | Order to show cause. |
| 307.98 | Suspension of licenses. |
| 307.99 | Revocation of licenses. |

AUTHORITY TO SEIZE NARCOTIC DRUGS, ORDER FORMS AND TAX STAMPS

- | | |
|---------|---|
| 307.111 | Sealing and safeguarding of narcotic drugs. |
| 307.112 | Forfeiture of narcotic drugs. |

MANUFACTURING QUOTAS

- | | |
|---------|--|
| 307.121 | Manufacturing quotas for basic classes of narcotic drugs; generally. |
| 307.122 | Individual manufacturing quotas. |
| 307.123 | Formula for fixing individual manufacturing quotas. |
| 307.124 | Provisional manufacturing quotas. |
| 307.125 | Application for individual manufacturing quotas. |
| 307.126 | Increase in individual manufacturing quotas. |

INCIDENTAL MANUFACTURE OF NARCOTIC DRUGS

- | | |
|---------|---|
| 307.131 | Exception from applicability of license and quota provisions. |
|---------|---|

MANUFACTURE OF NARCOTIC PRECURSORS

- | | |
|---------|----------------------|
| 307.141 | Narcotic precursors. |
|---------|----------------------|

IMPORTATION OF NARCOTIC DRUGS

- | | |
|---------|--|
| 307.151 | Importation of narcotic drugs for scientific purposes. |
|---------|--|

GENERAL PROVISIONS

§ 307.51 Hearings.

To the extent that a hearing under the regulations in this part is required pursuant to the provisions of the Administrative Procedure Act (60 Stat. 237), such hearing shall be conducted in accordance therewith. The Commissioner may specify such procedural rules as may be necessary from time to time to secure the efficient and expeditious conduct of hearings.

§ 307.52 Practice before Bureau of Narcotics by former employees.

(a) *Matters pending while employed.* No person having served as an agent, district supervisor, administrative officer, attorney or in any other capacity with the Bureau of Narcotics shall, within two years after the termination of his employment with the Bureau, practice or in any manner act as an attorney or agent or as the employee of an attorney or agent in any matter pending during the period of his employment therein, unless he shall first obtain the written consent of the Commissioner. This consent will not be granted unless it appears that the applicant for such consent did not give personal consideration to the matter or gain knowledge of the facts involved during and by reason of his employment in the Bureau of Narcotics.

(b) *Practice before Bureau.* For the purpose of this section, practice before the Bureau shall include the preparation of any statement, opinion or other paper by any attorney, accountant, chemist, pharmacologist or other expert filed with the Commissioner.

§ 307.53 Definitions.

As used in this part:
"Act" means the Narcotics Manufacturing Act of 1960, Pub. Law 86-429 (74 Stat. 55).

"Bureau" means the United States Bureau of Narcotics.

"Commissioner" means the Commissioner of Narcotics.

"Licensee" means a person granted a license under section 8 of Act to manufacture a basic class of narcotic drug.

"Manufacture" means the production of a narcotic drug, either directly or indirectly, by extraction from substances of vegetable origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

"Narcotic", "narcotics", or "narcotic drugs" means any of the substances defined as narcotic drugs in section 4731(a) of the Internal Revenue Code of 1954, as amended by section 4(a) of the Narcotics Manufacturing Act of 1960.

"Person" includes an individual, partnership, corporation, association, trust, or other institution or entity.

"1912 Convention" means the International Opium Convention for the Suppression of the Abuses of Opium and other Drugs signed at the Hague, January 23, 1912, and entered into force with respect to the United States, February 11, 1915.

"1925 Convention" means the International Opium Convention signed at Geneva, February 19, 1925 to which the United States is not a party.

"1931 Convention" means the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, concluded at Geneva, July 13, 1931, and entered into force with respect to the United States July 9, 1933.

"1946 Protocol" means the protocol amending the Conventions of 1912, 1925 and 1931, signed at Lake Success on December 11, 1946, and entered into force with respect to the United States, August 12, 1947.

"1948 Protocol" means the protocol bringing under international control drugs outside the scope of the 1931 Convention, signed at Paris, November 19, 1948, and entered into force with respect to the United States, September 11, 1950.

§ 307.54 Delegation of functions.

Treasury Department Order No. 180-5 issued by the Acting Secretary of the Treasury, dated August 3, 1960 (25 F.R. 7544) provides as follows:

By virtue of the authority vested in me by Reorganization Plan No. 26 of 1950 and by P.L. 86-429, there is hereby delegated to the Commissioner of Narcotics authority to perform all the functions of the Secretary of the Treasury under P.L. 86-429, 74 Stat. 55, cited as the "Narcotics Manufacturing Act of 1960".

The functions herein transferred to the Commissioner of Narcotics may be delegated by him to subordinates as he deems necessary.

Regulations issued by the Commissioner of Narcotics under the Narcotics Manufacturing Act of 1960 shall be subject to approval by the Secretary of the Treasury.

INTERNATIONAL CONTROL OF NARCOTIC DRUGS

§ 307.61 Notifications, findings and decisions under the 1948 Protocol.

(a) *Notification given.* The United States is obligated, as a signatory state Party to the 1948 Protocol to notify the Secretary-General of the United Nations

whenever it considers that a drug which is or may be used for medical or scientific purposes is liable to the same kind of abuse and productive of the same kind of harmful effects as the drugs specified in Article 1, Paragraph 2 of the 1931 Convention and is not covered by that Convention. The notification to the Secretary-General of the United Nations shall be made only after the Commissioner has found and proclaimed such drug to be an "opiate" in accordance with the procedure prescribed by section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4(b) of the Narcotics Manufacturing Act of 1960.

(b) *Notification received.* When the United States receives notification from the Secretary-General of the United Nations (pursuant to Article 1 or 2 of the 1948 Protocol) based on a decision of the World Health Organization or of the Commission on Narcotic Drugs of the Economic and Social Council that a drug which is or may be used for medical or scientific purposes and which is liable to the same kind of abuse and productive of the same kind of harmful effects as the drugs specified in Article 1, Paragraph 2 of the 1931 Convention, and is not covered by the 1931 Convention, is capable of producing addiction or of conversion into a drug capable of producing addiction, the Commissioner shall cause to be published in the FEDERAL REGISTER such decision of the World Health Organization or Commission on Narcotic Drugs, unless such drug has already been determined to be an "opiate" in accordance with section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4(b) of the Narcotics Manufacturing Act of 1960. From the time of such publication, the drug will be subject to the same control as an "opiate" in the same manner as if it had been so determined and proclaimed by the Commissioner pursuant to the procedure set forth in section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4(b) of the Narcotics Manufacturing Act of 1960.

§ 307.62 Findings by United Nations organs.

(a) *Arguments opposed to finding or decision.* Any person interested in the domestic manufacture and distribution for medical or scientific purposes of a drug which becomes subject to control by virtue of the procedure set forth in § 307.61(b), may submit to the Commissioner of Narcotics written data, views, briefs and argument opposed to such finding or decision. The Commissioner shall transmit such written data, views, briefs and argument to the Department of State for transmittal to the Secretary-General of the United Nations for consideration of the World Health Organization or the Commission on Narcotic Drugs, as the case may be, (under Article 3 of the 1948 Protocol), as the written opposition of such interested party, and not necessarily as the views of the United States.

(b) *Revised finding or decision.* If, after the submission of written data, views, and argument to the Secretary-General of the United Nations in accordance with paragraph (a), the

United States receives a revised finding or decision that the drug in question is not capable of producing addiction or conversion into a drug capable of producing addiction and that the provisions of the 1931 Convention shall not apply to such drug, the Commissioner of Narcotics shall cause such revised finding or decision to be published in the FEDERAL REGISTER within ninety (90) days of receipt thereof. From the time of such publication, such drug shall cease to be an "opiate", unless the Commissioner has previously initiated an "opiate" procedure pursuant to section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4(b) of the Narcotics Manufacturing Act of 1960.

§ 307.63 Withdrawal of Narcotic Drug from International control.

General: When the United States receives a revised finding or decision (under Article 3 of the 1948 Protocol) that a drug already subject to the federal narcotic laws as an "opiate" is not capable of producing addiction or of conversion into a drug capable of producing addiction and that the provisions of the 1931 Convention shall not apply to such drug, the Commissioner of Narcotics may, in his discretion, cause to be published in the FEDERAL REGISTER such revised finding or decision and, from the time of publication, such drug shall cease to be an "opiate". If on the other hand the Commissioner, in his discretion, does not cause such revised finding or decision to be published in the FEDERAL REGISTER, the drug in question shall continue to be an "opiate".

BASIC CLASSES OF NARCOTIC DRUGS

§ 307.71 Modification of list of basic class of narcotic drugs.

(a) *Definition of "basic class" of narcotic drug.* The term "basic class" of narcotic drug means any class of narcotic drug which has been included in the list enumerated in section 3(g) of the Narcotics Manufacturing Act of 1960, as such list may be altered from time to time by adding to, subtracting from, or further defining any such class.

(b) *Alteration of a basic class.* Whenever the Commissioner of Narcotics shall, either upon his own motion or upon the application of an interested party, determine that a narcotic drug as defined in section 4731 of the Internal Revenue Code of 1954, as amended by section 4 of the Narcotics Manufacturing Act of 1960, on the basis of its chemical structure and content possesses an addiction-forming or addiction-sustaining liability or convertibility into an addicting drug so great as to present a hazard, if manufactured and distributed, to the public health and safety, he may alter the classification set forth in section 3(g) of this Act by subtracting such basic class from existing classification or he may further define such basic class, as the case may be. The Commissioner, prior to making such alteration, shall cause to be published in the FEDERAL REGISTER a notice as to this proposed subtraction or further definition of a basic class. Such notice shall also apprise interested parties of their right to request a hearing

as to the proposed alteration of a basic class.

(c) *Addition of a new basic class to existing classification.* No new basic class of narcotic drug shall be added by the Commissioner to the established enumeration unless he shall first have determined that;

(1) such drug is a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended by section 4 of the Narcotics Manufacturing Act of 1960, or has caused to be published in the FEDERAL REGISTER a determination to this effect pursuant to section 5 of this Act; and

(2) to permit the manufacture of such drug will not be contrary to the public health and safety.

§ 307.72 Establishment of a new basic class of narcotic drug.

(a) *Request to establish a new basic class of narcotic drug.* A person interested in having a new basic class of narcotic drug established, as provided in § 307.71, shall file a formal written request therefor with the Commissioner of Narcotics on Bureau Form 187.

(b) *Preparation of Bureau Form 187.* The applicant for the establishment of a new basic class of narcotic drug in preparing Bureau Form 187 shall, to the extent available, render the following information called for on the form:

- (1) Generic name for drug;
- (2) International non-proprietary name of the drug;
- (3) Chemical name or description (structural formula);
- (4) General description and composition;
- (5) Therapeutic action and uses;
- (6) Advantages, if any, over similar drugs already in use;
- (7) Known or suspected habituation or addiction potentials;
- (8) Known side effects, if any, and precautions desirable in its use;
- (9) Methods of administration and recommended dosage;
- (10) Nature of applicant's interest in the drug.

(c) *Submission of Bureau Form 185.* The applicant for the establishment of a new basic class of narcotic drug, in addition to the filing of Bureau Form 187, shall prepare and file Bureau Form 185. The purpose of this form is to provide the Commissioner with whatever information is available respecting the chemical formulas, physical properties and general identification of new narcotic drugs and their closely related analogs, on which the Bureau is called upon to take some action, particularly new synthetics and newly prepared opium derivatives, whose properties are not yet published in standard chemical or pharmaceutical reference works.

(d) *Addition of new basic class by Commissioner.* Where the Commissioner, on his own initiative, determines in accordance with paragraph (c) of § 307.71, that the addition of a new basic class of narcotic drug to the existing classification would not be contrary to the public health and safety, he shall cause a notice to this effect to be published in the FEDERAL REGISTER. The

notice shall also apprise interested parties that they may request a hearing as to the proposed addition of a new basic class of narcotic drug to the existing classification, as enumerated in section 3(g) of the Act.

(e) *Granting of application to establish a new basic class.* If on the basis of all the information before him, the Commissioner determines that the approval of an application for the addition of a new basic class to the existing classification would be consistent with the law and the public health and safety, he shall cause to be published in the FEDERAL REGISTER a notice to the effect that an application to establish a new basic class of narcotic drug has been made by a named applicant, specifying the class of narcotic drug involved and apprising all interested parties of their right to request a hearing as to the proposed addition of a new basic class to the existing classifications. The notice shall indicate that in the absence of evidence convincing the Commissioner that such course is inappropriate, he intends to grant the application.

(f) *Final determination to establish a new basic class.* The Commissioner, after having determined under paragraph (d) or (e) of this section that it is consistent with law and the public health and safety to establish a new basic class of narcotic drug to the existing classification, shall cause to be published in the FEDERAL REGISTER a notice to this effect.

(g) *Denial of application.* If, on the basis of all of the information before him, the Commissioner determines that the approval of an application for the addition of a new basic class to the existing classification would not be consistent with law and the public health and safety, he may deny such application. Prior to denying such application, the Commissioner shall afford the applicant an opportunity to present any additional evidence relevant to the application. If after such additional evidence is presented, the Commissioner determines that it would now be consistent with the public health and safety to grant such application, the provisions of paragraph (f) of this section shall apply.

(h) *Opportunity for hearing.* If the Commissioner continues to be of the opinion that the granting of the application would not be consistent with law and the public health and safety, he shall afford the applicant an opportunity for a hearing, causing a notice to this effect to be published in the FEDERAL REGISTER.

MANUFACTURE OF NARCOTIC DRUGS

§ 307.81 Restriction on manufacture of narcotic drugs.

General: Except as provided in § 307.83, it shall be unlawful for any person to engage in the manufacture of any narcotic drug or cause or permit another to engage in the manufacture of any narcotic drug unless:

(a) Such narcotic drug is included in a "basic class" of narcotic drug (see § 307.71); and

(b) Such person holds a currently effective license for the manufacture of such basic class of narcotic drug issued pursuant to section 8 of the Act (see § 307.90); and

(c) Such person holds a currently effective manufacturing quota with respect to such basic class of narcotic drug, as set forth in section 11 of the Act (see § 307.121).

§ 307.82 Omission of a narcotic drug from a basic class.

(a) No narcotic drug shall be manufactured unless it is included within a basic class enumerated in section 3(g) of the Narcotics Manufacturing Act of 1960, or established pursuant to section 6 of the Act.

(b) The fact that the Commissioner shall have (1) determined that a drug is a narcotic drug, or (2) caused a finding or decision with respect to any drug or other substance to be published in the FEDERAL REGISTER pursuant to section 5 of the Narcotics Manufacturing Act of 1960 (see § 307.61), shall not require the Commissioner to add such narcotic drug to the classification set forth in section 3(g) of the Act (see § 307.71 as to modification of list of basic class of narcotic drugs), or to grant a manufacturing quota pursuant to section 11 of the Act (see § 307.121), for such narcotic drug, if he finds that it would be contrary to the public health and safety.

§ 307.83 Manufacturing for scientific research and testing.

(a) *Manufacture for scientific research.* The Commissioner of Narcotics shall exempt from the provisions of § 307.90, any person desirous of manufacturing a narcotic drug exclusively for research in the development of manufacturing processes for the drug, or for chemical, pharmacological or medical testing of such drug, for fitness for medical or scientific use and for determination of its suitability for general manufacture and distribution for medical or scientific use.

(b) *Authorization to manufacture.* Written authorization from the Commissioner to manufacture a narcotic drug for scientific purposes must be obtained prior to the undertaking of such manufacture. The Commissioner shall grant such authorization only to those public officials who have evidenced their exemption from registration and payment of tax (26 CFR 151.221) with the District Director of the Internal Revenue Service or to persons registered in Class I or Class VI, under section 4722 of the Internal Revenue Code of 1954, as amended, and who otherwise meet the standards for licensing under subsection (a) of section 8 of the Narcotics Manufacturing Act of 1960.

(c) *Application for authorization to manufacture.* A person desiring to obtain authorization to manufacture a narcotic drug for scientific purposes shall file an application therefor on Bureau Form 190 in duplicate, which form is available at the office of the Commissioner, Bureau of Narcotics, Washington 25, D.C. If the drug to be manufactured is produced by chemical synthesis, whether or not from narcotic materials,

the application shall be accompanied by an outline of the process of synthesis on Form 186, identifying the substances from which it is to be made and those resulting from each successive step of the process, and indicating in each instance whether the substance is isolated and weighed or measured or whether it remains in solution in a continuing process of manufacture. The applicant need not disclose on this form any technical detail of the process which he regards as an important trade secret, but in order that the Commissioner may discharge his responsibility under the law with respect to narcotic precursors the applicant must identify each substance used and each substance resulting from the successive stages of manufacture. Information disclosed on Form 186 will be held in confidence by the Bureau.

(d) *Limitations on authorization.* Authorization to manufacture under this section will be limited to narcotic drugs not readily available to the researcher from sources within the United States, except where the development of new or improved methods of production is the object of the research to be undertaken. In addition, the Commissioner may specify a limitation on the quantity of narcotic drug to be manufactured under this section of the regulations.

(e) *Reports required.* Persons authorized to manufacture under this section of the regulations and who are Class I registrants shall render a quarterly report to the Commissioner on Bureau Form 810 and its supplements in accordance with 26 CFR 151.261. Those persons who are Class VI registrants shall render to the Commissioner semi-annual reports on Bureau Form 192, as of June 30 and December 31 of each year, to be submitted not later than the 15th of the month following, accounting for the manufacture and use or other disposition of the drugs so manufactured.

(f) *Disposition of drugs manufactured.* All such drugs manufactured under this section of the regulations shall be used in research or otherwise disposed of, as authorized by the Commissioner, within five years from the date of manufacture, unless an extension of time for completion of the research has been requested in writing and granted by the Commissioner.

(g) *Suspension or revocation of authorization.* Any authorization granted by the Commissioner under this section of the regulations shall be subject to suspension or revocation in accordance with the procedure set forth in §§ 307.79 and 307.80 as to suspension or revocation of licenses to manufacture.

MANUFACTURERS' LICENSES

§ 307.90 License to manufacture narcotic drugs; generally.

(a) Every manufacturer of a basic class or classes of narcotic drug shall obtain a license for each such basic class on or before January 1, 1961, if then already engaged in such manufacture. All other persons desiring to engage in the manufacture of a basic class or classes of narcotic drug after January 1, 1961 shall obtain appropriate licenses for each

such basic class prior to undertaking such manufacture. Issuance of a license for the manufacture of any one basic class of narcotic drug shall not entitle the licensee to engage in any transaction with respect to any other basic class of narcotic drug.

(b) A person desiring to obtain a license as provided in paragraph (a) of this section shall prepare and file an application for such a license in accordance with the procedure set forth in § 307.92.

§ 307.91 Registration as a prerequisite to issuance of a license.

In addition to the conditions precedent for the issuance of a license to manufacture a particular basic class of narcotic drug as provided in § 307.90, each applicant for a license must be registered as a Class I registrant pursuant to the provisions of sections 4721 and 4722 of the Internal Revenue Code of 1954, as amended (see 26 CFR Part 121 et seq.).

§ 307.92 Requirements for license applications.

(a) *Who may file.* Any person may file an application for a license to manufacture a basic class of narcotic drug under section 8 of the Narcotics Manufacturing Act of 1960.

(b) *Filing of applications.* All applications for licenses must be filed in the office of the Commissioner, Bureau of Narcotics, Washington 25, D.C. Application shall be made on Bureau Form 188 in duplicate which form is available at the above address. If the drug to be manufactured is produced by chemical synthesis, whether or not from narcotic materials, the application shall be accompanied by an outline of the process of synthesis on Form 186, identifying the substances from which it is to be made and those resulting from each successive step of the process, and indicating in each instance whether the substance is isolated and weighed or measured or whether it remains in solution in a continuing process of manufacture. The applicant need not disclose on this form any technical detail of the process which he regards as an important trade secret, but in order that the Commissioner may discharge his responsibility under the law with respect to narcotic precursors the applicant must identify each substance used and each substance resulting from the successive stages of manufacture. Information disclosed on Form 186 will be held in confidence by the Bureau.

(c) *Separate applications.* An applicant who files separate applications to manufacture more than one class of narcotic drug need not repeat information on each application. He may make reference on any application to information which he has furnished on another application, identifying such other application by either file number, or if there has been no file number assigned, by basic class.

(d) *Subscription of applications.* Each application, or amendment thereto, and each written statement of fact required by the Commissioner from any applicant to enable the Commissioner to determine whether an application should be granted or denied, shall be personally

signed by the applicant, if an individual; by a partner of the applicant, if a partnership; or by an officer of the applicant, if an association or corporation.

(e) *Contents of applications.* (1) Each application shall include all information called for by Forms 186 and 188 unless the information called for is inapplicable, in which case this fact shall be indicated.

(2) The Commissioner may require an applicant to submit such documents and written statements of fact pertinent to the subject matter of the application, as in the Commissioner's judgment may be necessary, or to amend the application to make it more definite and certain.

(f) *Acceptance of applications for filing.* (1) Applications submitted for filing are dated by the office of the Commissioner upon receipt and then forwarded to the Returns Division of the Bureau where an administrative examination is made to ascertain whether the applications are complete. Applications found to be complete or substantially complete are accepted for filing and are given a file number, which file number shall be transmitted to the applicant to be used on all future correspondence related to the application. In case of minor defects as to completeness, the applicant will be requested to supply the missing information. Applications which are not substantially complete will be returned to the applicant.

(2) Acceptance of an application for filing merely means that it has been the subject of a preliminary review by the Commissioner's administrative staff as to completeness and has no relevance to whether the application will be granted or denied. Such acceptance will not preclude the subsequent request for further information.

(g) *Defective applications.* (1) Applications which are determined to be patently not in accordance with these regulations or the Commissioner's specific requirements as to a particular applicant, unless accompanied by an appropriate request for waiver, will be considered defective and will not be accepted for filing. If it is ascertained that an application has been inadvertently accepted for filing, the filing will be cancelled. Requests for waiver or exception desired shall set forth the reasons in support thereof, and will be accepted or rejected in the discretion of the Commissioner.

(2) If an applicant is requested by the Commissioner to file any additional documents or information pertinent to the application not included in the prescribed application form, a failure to comply with such request will be deemed to render the application defective and the filing of such application will be cancelled.

(h) *Amendments to applications.* (1) Any application may be amended as a matter of right prior to the date of the receipt of notice from the Commissioner establishing a date for a hearing as requested by the applicant in accordance with § 307.93(d).

(2) Requests to amend an application after it has been designated for hearing will be considered only upon written per-

mission by the Commissioner, and will be granted only for good cause shown.

(i) *Withdrawal of applications.* (1) Any application may, upon request of the applicant, be withdrawn as a matter of right prior to the date of receipt of notice from the Commissioner establishing a date for a hearing as requested by the applicant in accordance with § 307.93 (d). An applicant's request for the return of an application that has been accepted for filing will be regarded as a request to withdraw the application.

(2) Requests to withdraw an application after it has been designated for a hearing will be granted only for good cause shown.

(3) Failure to prosecute an application or failure to respond to official correspondence or request for additional information will be treated as a request by the applicant for withdrawal of his application.

§ 307.93 Action upon applications.

(a) *Notice of intention to grant application.* If after appropriate consideration, the Commissioner finds that it would be consistent with the public interest to grant any application filed pursuant to § 307.92, he shall so notify the applicant. This notification, however, shall not be construed as granting the application.

(b) *Protest of grant of application.* After notification is given to the applicant, as provided in paragraph (a) of this section, the Commissioner shall cause to be published in the FEDERAL REGISTER a notice to the effect that a named applicant has applied for a license to manufacture a particular basic class of narcotic drug, and that such application is being favorably considered. He shall at the same time mail a copy of this notice to every person who then holds an effective license to manufacture a narcotic drug in the basic class to which the application applies or who has a pending application therefor on file. Within twenty days after the notice is published in the FEDERAL REGISTER, any interested person may file a written protest with both the Commissioner and the applicant against favorable consideration of the application. Any such protest shall specify with particularity the facts relied upon as showing that a license if granted to the applicant would not be in the public interest. Such interested person may request a hearing as to his protest. The Commissioner shall, within twenty days after the filing of a timely protest, designate a date for a hearing. The Commissioner may require of the applicant that he file with the Commissioner and the person making the protest, a written statement setting forth the grounds, if any, for his opposition to the protest. If such statement is required by the Commissioner, the applicant must file it within twenty days after the demand upon him is made by the Commissioner. Failure on the part of the applicant to submit such statement will be grounds for denial of the application.

(c) *Action on denial of license.* If upon examination of any application prepared and filed by the applicant in

accordance with § 307.92, the Commissioner is unable to find that it would be consistent with the law and the public interest to grant the application, he shall notify the applicant that he is denying the application and shall state the grounds and reasons for his action.

(d) *Right of hearing after denial of license.* Following notice of denial, as set forth in paragraph (c) of this section, the applicant within twenty days from receipt thereof, may present in writing any reasons for disagreeing with the Commissioner's denial of the application. If the Commissioner thereafter determines that it is appropriate to give favorable consideration to the application, the provisions of paragraphs (a) and (b) of this section shall apply. If the Commissioner adheres to his decision to deny the application, he shall afford the applicant an opportunity to be heard. If the applicant elects to have a hearing, the Commissioner shall specify a date for the hearing and shall appropriately notify the applicant and each licensee who holds an effective license to manufacture the basic class of narcotic drug to which the application relates and every person who has on file an application to manufacture the basic class of narcotic drug involved. The Commissioner shall also cause to be published in the FEDERAL REGISTER a notice to the same effect.

(e) *Joinder of parties and consolidation of hearings.* All interested persons are permitted to participate in any hearing under this section and may be compelled by the Commissioner to do so or waive their rights to be heard. The Commissioner may direct that more than one application to manufacture a basic class of narcotic drug be consolidated for the purpose of a hearing. After consolidation, an application will be retained for hearing notwithstanding that prior to hearing any other application with which it has been consolidated has been dismissed, or amended or otherwise removed from the hearing.

§ 307.94 Factors governing issuance of licenses.

In determining whether to issue a license to an applicant to manufacture a particular basic class of narcotic drug, under § 307.90, the Commissioner shall be governed by whether the issuance of the license would tend to achieve the objectives set forth in section 8 of the Narcotics Manufacturing Act of 1960.

§ 307.95 Period of validity of license.

The Commissioner shall designate the form which the license to be issued pursuant to § 307.90 shall take. The license once issued, shall not require any renewal and shall remain in effect, subject only to annual renewal of registration as required in section 8(b) of the Narcotics Manufacturing Act of 1960, unless otherwise revoked or suspended pursuant to section 9 of the Act (see §§ 307.99-307.100), or voluntarily surrendered.

§ 307.96 Assignment or transfer of licenses.

No license nor any right granted thereunder shall be assigned or otherwise transferred except upon such conditions as the Commissioner may specifically

designate and then only pursuant to his written consent.

§ 307.97 Warning to licensee for failure to comply.

(a) *Failure to comply, generally.* Where a licensee has failed to comply with any of the provisions of these regulations or has failed to operate in accordance with any provision of the federal narcotic laws and regulations, the Commissioner of Narcotics may serve written notice upon such licensee calling his attention to the facts or conduct of such licensee without serving an order to show cause as provided in § 307.98. The licensee may then be accorded an opportunity to demonstrate or achieve compliance with all lawful requirements, and to render a full and complete explanation as to the matter brought to his attention by the Commissioner.

(b) *Willful failure to comply.* Where the Commissioner of Narcotics considers the licensee's failure to comply with any of the provisions of these regulations or his failure to operate in accordance with any provision of the federal narcotic laws and regulations is willful or contrary to the public health and safety, the Commissioner shall issue an order to show cause, pursuant to § 307.98.

§ 307.98 Orders to show cause.

(a) Before revoking any license, the Commissioner shall serve upon the licensee an order to show cause why an order of revocation should not be issued. Any such order to show cause shall contain a statement of the basis thereof, and shall call upon such licensee to appear before the Commissioner at a time and place stated in the order, but in no event less than thirty days after the date of receipt of such order, and give evidence upon the matter specified therein.

(b) In order to avail himself of the opportunity to be heard, the licensee shall within thirty days of the date of the receipt of the order file with the Commissioner a written statement that he will appear in accordance with the order and will present evidence on the matter specified in the order. If the licensee fails to file such written statement within the time specified in this paragraph, the right to a hearing shall be deemed to have been waived.

(c) Where a hearing is waived under paragraph (b) of this section, or where the licensee has failed to appear after having stated that he would do so, the allegations of fact contained in the order to show cause will be deemed to be correct.

(d) Where a hearing is waived, not under paragraph (b) of this section, but rather by written formal waiver, the licensee may submit to the Commissioner a written statement in mitigation or justification within thirty days of the date of receipt of the order to show cause.

(e) Any order of revocation issued pursuant to this section of the regulations by the Commissioner shall include a statement by him of his findings and grounds and reasons therefor and shall:

(1) Specify the effective date of the order; and

(2) Cause such order to be served on the licensee.

(f) Any proceeding under this section shall be independent of, and not in lieu of, criminal prosecution or other proceedings under this Act or any other law of the United States.

§ 307.99 Suspension of licenses.

(a) The Commissioner may suspend any license, when or at any time after he issues an order to show cause under § 307.98, in any case where he finds that the public health, safety or interest requires such suspension.

(b) Where the Commissioner orders a license suspended under paragraph (a) of this section, the licensee shall send the license to the Commissioner in Washington, D.C., promptly upon receipt of the notice of suspension.

(c) Any suspension ordered by the Commissioner, as provided in this section of the regulations, shall continue in effect until the conclusion of any revocation proceeding, including judicial review thereof, if any, unless sooner withdrawn by the Commissioner, or dissolved by a court of competent jurisdiction.

§ 307.100 Revocation of licenses.

(a) Any license issued pursuant to section 8 of the Narcotics Manufacturing Act of 1960 may be revoked by the Commissioner if the licensee

(1) Has been convicted of violating or conspiring to violate any law of the United States or of any State where the offense involves any activity or transaction with respect to narcotic drugs; or

(2) Has violated or failed to comply with any duly promulgated regulation relating to narcotic drugs, and such violation or failure to comply reflects adversely on the licensee's reliability and integrity with respect to narcotic drugs.

(b) In the case of a licensee who is the holder of more than one license issued pursuant to section 8 of the Act, the Commissioner may revoke under paragraph (a) of this section one or all of the licenses issued to such licensee.

AUTHORITY TO SEIZE NARCOTIC DRUGS, ORDER FORMS AND TAX STAMPS

§ 307.111 Sealing and safeguarding of narcotic drugs.

(a) The Commissioner of Narcotics on or after ordering the suspension or revocation of a licensee's license under § 307.99 or § 307.100 may order that all narcotic drugs, whether or not taxes have been paid thereon, owned or possessed by such licensee and all unused order forms and narcotic tax stamps owned or possessed by such licensee be placed under seal under the supervision of a representative of the Bureau of Narcotics, pending final disposition of the revocation proceeding.

(b) The representative of the Bureau, referred to in paragraph (a) of this section, shall, in the presence of the licensee or his representative, prepare an inventory, in triplicate, of all items thus placed under seal. The original inventory shall be forwarded to the Commissioner of Narcotics, the duplicate copy shall be forwarded to the narcotic District Supervisor of the district wherein the sealing takes place and the triplicate copy shall be given to the affected licensee.

(c) A licensee may make no disposition of any item placed under seal. The licensee shall be responsible for safeguarding all sealed items to insure against their disposition and to protect them against being tampered with.

§ 307.112 Forfeiture of narcotic drugs.

(a) When a revocation order, under § 307.100, becomes final, all narcotic drugs, unused order forms and tax stamps relating to narcotic drugs, owned or possessed by the affected licensee, shall be forthwith confiscated, and when confiscated shall be deemed to be forfeited to the Government.

(b) Representatives of the Bureau of Narcotics when confiscating narcotic drugs, unused order forms and tax stamps, shall determine whether there has been any disposition of or tampering with any such items that had been sealed pursuant to § 307.111.

(c) At the time of confiscating narcotic drugs, unused order forms and tax stamps which have not previously been ordered sealed and safeguarded under § 307.111, the representatives of the Bureau of Narcotics who are confiscating the items shall, in the presence of the licensee or his representative, prepare an inventory in triplicate of the items being confiscated. The original inventory shall be forwarded to the Commissioner of Narcotics, the duplicate copy shall be forwarded to the narcotic District Supervisor of the district wherein the confiscation was made and the triplicate copy shall be given to the licensee from whom the confiscation was made, and shall be retained by him for a period of not less than two years.

(d) Representatives of the Bureau of Narcotics at the time of confiscating narcotic drugs pursuant to this section may, as the Commissioner of Narcotics directs, either destroy accumulated narcotic wastes and undesired narcotic drugs or dispose of such wastes and drugs pursuant to the procedures set forth in paragraph (e) of this section.

(e) All confiscated items not destroyed shall be delivered to the narcotic District Supervisor of the district wherein the confiscation takes place. The narcotic District Supervisor will forward the narcotic drugs thus confiscated to the Commissioner of Narcotics (Drugs Disposal Committee) for proper disposition in accordance with the provisions of 26 CFR 151.491. Confiscated unused order forms and tax stamps shall be forwarded to the District Director of the Internal Revenue Service of the district wherein the licensee was registered for cancellation of such order forms and for disposition of the tax stamps. No refund will be allowed for tax stamps forfeited to the Government under this section of the regulations.

MANUFACTURING QUOTAS

§ 307.121 Manufacturing quotas for basic classes of narcotic drugs; generally.

(a) In order to carry out the treaty obligations of the United States, the Commissioner of Narcotics shall, on or before June 1, of each year, make determinations of the total quantity of each

basic class of narcotic drug necessary to be manufactured during that calendar year to provide for the estimated medical and scientific needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks.

(b) In fixing yearly manufacturing quotas for each basic class of narcotic drug, the Commissioner of Narcotics shall consider the total needs for the procurement of such drugs for further manufacturing or processing by registered manufacturers who do not hold quotas to manufacture such basic class of narcotic drug. In order that such information may be available to the Commissioner each registered manufacturer who does not hold a manufacturing quota shall on or before November 30, notify the Commissioner in writing on Bureau Form 194 of the amount of each basic class of narcotic drug which he desires to procure in the following year for further manufacturing or processing. The Commissioner shall notify each person who has filed Bureau Form 194 whether the request thereon will be relied upon by the Commissioner in fixing the annual manufacturing quotas. When the Commissioner states that he will rely upon any such forms he shall also state the amount which he will take into account and such amount shall be known as the "purchase quota" of the person filing the form. Such purchase quotas will be based upon the applicant's previous yearly requirements and upon his reasonably anticipated requirements.

(c) Notwithstanding the provisions of (b) of this section, Bureau Form 194 need not be filed by any registered manufacturer who uses less than one kilogram of all basic classes of narcotic drugs annually.

§ 307.122 Individual manufacturing quotas.

(a) *Fixing of individual manufacturing quotas.* The Commissioner of Narcotics shall upon application fix annual manufacturing quotas for each licensee holding a license to manufacture each basic class of narcotic drug and in so doing shall be governed by the provisions of section 11 of the Narcotics Manufacturing Act of 1960.

(b) *Reducing individual manufacturing quotas.* The Commissioner of Narcotics, after having established individual manufacturing quotas for a basic class of narcotic drug may reduce an individual manufacturing quota which he has previously fixed, so as to prevent the aggregate of the manufacturing quotas outstanding or to be granted from exceeding the established quota for the basic class of narcotic drug.

(c) *Production in excess of quota.* No person shall knowingly manufacture any narcotic drug in any quantity in excess of any quota which he holds. When a licensee who under a quota as originally fixed, or as reduced by the Commissioner of Narcotics under paragraph (b) of this section, has already manufactured a basic class of narcotic drug in excess of the quota, such excess shall be subtracted by the Commissioner of Narcotics from the licensee's manufacturing quota for the following year.

(d) *Proportionate reduction of manufacturing quota.* Any reduction of an individual manufacturing quota shall be in the same proportion as the reduction of the aggregate of the established quota for the basic class of narcotic drug or in the proportion that a quota to a new licensee may require in order to keep the aggregate of the individual quotas from exceeding the established quota for the basic class of narcotic drug.

§ 307.123 Formula for fixing individual manufacturing quotas.

(a) *Time for fixing of quotas.* Upon application therefor, the Commissioner of Narcotics shall, on or before June 1 of each year fix individual manufacturing quotas for the manufacture of each basic class of narcotic drug.

(b) *Sufficiency of manufacturing quotas.* Subject to the right of the Commissioner of Narcotics to reduce, limit, suspend or revoke any manufacturing quota, any quota established for a licensee for the manufacture of a basic class of narcotic drug shall be sufficient to cover the licensee's estimated requirement for the calendar year in question as to—

(1) His "net disposal" (as defined in paragraph (c)) for such calendar year;

(2) His inventory at the close of such calendar year; and subject to such other factors as the Commissioner may determine should be taken into consideration in arriving at a proper quota under all the circumstances (i.e., licensee's current net disposal rate, the trend of such net disposal rate during the preceding calendar year or years, the licensee's production cycle and current inventory position, the economic and physical availability of raw materials used by the licensee in the production of such basic class of narcotic drug, yield and stability problems, emergency situations such as catastrophes and strikes, and any other factors which the Commissioner deems appropriate to consider in arriving at the proper quota under the circumstances).

(c) *Definition of "net disposal".* The term "net disposal" means the quantity of a basic class of narcotic drug sold, exchanged, given away, used in the production of another basic class of narcotic drug for which the manufacturer is licensed, or otherwise disposed of (as such or contained in or combined with other drugs compounded by the manufacturer of such basic class) by the manufacturer during a stated period, less the quantity of any such basic class of narcotic drug returned to the manufacturer by a customer and any quantity sold or transferred to another licensed manufacturer of the same basic class of narcotic drug.

(d) *Definition of "inventory".* The term "inventory" means all factory and branch stocks (whether held by the manufacturer under Class I or Class II registration as provided in 26 CFR 151.41) of a basic class of narcotic drug manufactured or otherwise acquired by a licensee, whether in bulk, marketable packages, or contained in pharmaceutical preparations in the possession of the licensee and all subsidiary companies, if any, of such licensee.

(e) *Establishment of manufacturing quotas.* Subject to the right of the Commissioner of Narcotics to reduce, limit, suspend or revoke any manufacturing quota, the quota for each licensed manufacturer shall not be less than the sum of—

(1) Such licensed manufacturer's net disposal of such basic class of narcotic drug during the immediately preceding calendar year or the average of the three immediately preceding calendar years in which such manufacturer produced such basic class of narcotic drug, whichever is greater; and

(2) One-half of such manufacturer's net disposal of such basic class of narcotic drug during the immediately preceding calendar year;

less such manufacturer's inventory of such basic class of narcotic drug on December 31 of the preceding calendar year.

(f) *Manufacturing quotas for new licensees.* Subject to the right of the Commissioner of Narcotics to reduce, limit, suspend or revoke any manufacturing quota, the Commissioner, upon application therefor, shall fix a quota for any licensed manufacturer of a basic class of narcotic drug who has not manufactured such basic class of narcotic drug during one or more of the three immediately preceding calendar years, in an amount adequate to cover such manufacturer's reasonably anticipated requirements for the current calendar year.

§ 307.124 Provisional manufacturing quotas.

(a) A licensed manufacturer, between January 1 of any year and the time when he receives a quota for such year under § 307.123 may manufacture a provisional quota of the basic class of narcotic drug for which he is licensed.

(b) The provisional quota referred to in paragraph (a) of this section, except as provided in paragraph (c) of this section shall be not more than 75 per centum of whichever of the following is greater:

(1) Such licensee's aggregate net disposal of such basic class of narcotic drug during the twelve months immediately preceding September 30 of the preceding year; or

(2) Twelve times such licensee's average monthly net disposal of such basic class of narcotic drug for the thirty-three months immediately preceding September 30 of the preceding year.

(c) The Commissioner of Narcotics may, for good cause, raise or lower the provisional quota percentage provided for in paragraph (b) of this section. Any increase or decrease in percentage provided for by the Commissioner shall apply to the provisional quotas of all licenses for the basic class of narcotic drug involved.

§ 307.125 Application for individual manufacturing quotas.

(a) Each person desirous of manufacturing a basic class of narcotic drug for which he holds a currently effective manufacturing license, shall file an application for an individual manufac-

turing quota on Bureau Form 189 for each such basic class of narcotic drug. Bureau Form 189 shall be filed with the Commissioner of Narcotics no later than March 1 of each year in which the licensee desires to manufacture such basic class of narcotic drug.

(b) Any person who is not desirous of manufacturing a basic class of narcotic drug for which he holds a currently effective manufacturing license, shall notify the Commissioner of Narcotics no later than March 1 of any year in which he does not desire to manufacture such basic class of narcotic drug.

(c) Any person who after having filed an application for an individual manufacturing quota under paragraph (a) of this section, decides not to manufacture such basic class of narcotic drug or to discontinue the manufacture of such basic class of narcotic drug, shall forthwith notify the Commissioner of Narcotics, in writing, to this effect.

§ 307.126 Increase in individual manufacturing quotas.

(a) Any licensee who holds a manufacturing quota for a basic class of narcotic drug may file an application on Bureau Form 189 with the Commissioner of Narcotics for an increase in such manufacturing quota in order for him to meet his estimated net disposal, inventory and other requirements during the remainder of such calendar year.

(b) The Commissioner of Narcotics, in passing upon a licensee's application for an increase in his manufacturing quota, shall take into consideration any occurrences since the filing of such licensee's initial quota application that may require an increased manufacturing rate by such licensee during the balance of the calendar year. In passing upon such application the Commissioner may also take into consideration the amount, if any, by which his determination of the total quantity for the basic class of narcotic drug to be manufactured under § 307.121, exceeds the aggregate of all the individual manufacturing quotas for the basic class of narcotic drug, and the equitable distribution of such excess among other licensees.

INCIDENTAL MANUFACTURE OF NARCOTIC DRUGS

§ 307.131 Exception from applicability of license and quota provisions.

(a) Any licensee who, incidentally but necessarily, manufactures a narcotic drug as a result of his manufacture of a basic class of narcotic drug for which he holds a license and manufacturing quota under the regulations in this part, shall be exempt from the requirement of a license and quota under the regulations in this part as to such resulting narcotic drug.

(b) No license or quota shall be required for any quantity of narcotic drug which incidentally but necessarily results from the manufacture of any non-narcotic substance not covered by the regulations in this part.

(c) Any incidentally but necessarily resulting narcotic drug, within the meaning of paragraphs (a) or (b) of

this section which is a basic class of narcotic drug, shall be disposed of in the following ways only:

(1) By transfer to another manufacturer who holds a license to manufacture such basic class of narcotic drug. Before such transfer can be made, however, the manufacturer desirous of making such transfer shall first apply to the Commissioner of Narcotics in writing for approval to transfer specified quantities of such resulting narcotic drugs to a specified transferee or transferees. No transfer is authorized unless the Commissioner approves such transfer in writing in advance thereof.

(2) By shipment to the narcotic District Supervisor as excess and undesired narcotic drugs pursuant to 26 CFR 151.474; or

(3) By destruction in the presence of a representative of the Bureau of Narcotics, authorized by the Commissioner of Narcotics to witness such destruction.

(d) Any incidentally but necessarily resulting narcotic drug within the meaning of paragraph (a) or (b) of this section which is not a basic class of narcotic drug, may be disposed of in one of the following ways only:

(1) By shipment to the narcotic District Supervisor as excess and undesired narcotic drugs pursuant to 26 CFR 151.474; or

(2) By destruction in the presence of a representative of the Bureau of Narcotics, authorized by the Commissioner of Narcotics to witness such destruction.

(e) A manufacturer may retain a resulting narcotic drug within the meaning of paragraph (a) or (b) of this section only for such period of time as is reasonably necessary for him to make disposition of such drug in the manner provided in this section.

MANUFACTURE OF NARCOTIC PRECURSORS § 307.141 Narcotic precursors.

(a) *Definition of "narcotic precursor".* The term "narcotic precursor" means a substance other than a narcotic drug which the Commissioner has found to be

(1) An immediate chemical precursor of a narcotic drug;

(2) Produced primarily for use in the manufacture of a narcotic drug; and

(3) Used or likely to be used, in the manufacture of a narcotic drug by persons other than persons licensed under section 8 of the Narcotics Manufacturing Act of 1960, to manufacture such narcotic drug.

Before finding a substance to be a narcotic precursor, the Commissioner shall give due notice in the FEDERAL REGISTER and afford an opportunity for public hearing to interested persons.

(b) *Requirements as to persons engaging in transactions with respect to narcotic precursors.* Any person who is engaged in the manufacture, compounding, packaging, selling, dealing in or giving away of a narcotic precursor, as defined in paragraph (a) of this section, shall:

(1) Maintain records as prescribed in paragraph (d) of this section; and

(2) Prepare and submit an annual report on Bureau Form 193 on or before February 15 of each year.

(c) *Exception to applicability of paragraph (b).* The provisions of paragraph (b) of this section shall not apply to a person manufacturing a narcotic precursor who holds a license to manufacture a basic class of narcotic drug under section 8 of the Narcotics Manufacturing Act of 1960, provided that the narcotic precursor manufactured by such licensee is to be used exclusively by him for the manufacture of the basic class of narcotic drug for which he holds a license.

(d) *Procedure as to maintenance of records and preparation of annual report.* The manufacturer of a substance which has been declared a narcotic precursor shall keep for a period of not less than two years such records as will enable him to supply the Commissioner accurate information as to the quantity of such precursor manufactured or otherwise acquired by him, his dispositions thereof, the names and addresses of the persons to whom supplied, the quantity supplied to each and the use for which intended. The annual report on Form 193 shall include a summary of this information for the calendar year.

IMPORTATION OF NARCOTIC DRUGS

§ 307.151 Importation of narcotic drugs for scientific purposes.

(a) *Exemption for scientific purposes.* Notwithstanding the provisions of § 302.1 of this chapter, the Commissioner of Narcotics may issue a formal permit to certain classes of persons desiring to import any narcotic drug or drugs (including crude opium and coca leaves) for scientific purposes only.

(b) *Application for import permit.* Application for a permit to import shall be made to the Commissioner on Bureau Form 191. The applicant for such import permit shall also prepare and submit to the Commissioner, Bureau Form 185 (Drug Identification Sheet), where the substance to be imported is a narcotic drug not described in the standard reference works on drugs and chemicals.

(c) *Limitation on authorization to import.* Imports under this section will be limited to narcotic drugs not readily available to the applicant from sources within the United States, unless questions of origin, types or particular methods of production are elements of the research objectives. Applicants for import permits licensed under section 8 of the Narcotics Manufacturing Act of 1960, who as part of their manufacturing business maintain branch or subsidiary manufacturing establishments in foreign countries may be issued import permits for occasional imports of samples of the products of these foreign branches or subsidiaries for the purpose of research or spot check analyses to establish or maintain proper chemical and therapeutical standards of their products. However, an applicant will not be granted an import permit to make continuous or regular imports of samples of recurring batches or lots of the same product for routine factory controls. Each importation desired must be separately applied for and be covered by a separate import permit.

(d) *Disposition.* All drugs imported under this section shall be used in re-

search or otherwise disposed of as authorized by the Commissioner, within five years from the date of their import, unless an extension of time for completion of the research has been granted by the Commissioner.

(e) *Reports.* Persons importing narcotic drugs under this section shall render to the Commissioner semi-annual reports on Bureau Form 192, as of June 30 and December 31 of each year, to be submitted not later than the 15th of the month following, accounting for the importation and use or other disposition of the narcotic drug or drugs so imported.

10. Add under § 302.1 the following cross reference:

CROSS REFERENCE: For importation of narcotic drugs for scientific purposes only see § 307.151 of this chapter.

(26 U.S.C. 4731(g), as amended by sec. 4, Pub. Law 86-429 (74 Stat. 57), 21 U.S.C. 188e, 56 Stat. 1046, 21 U.S.C. 173, 182, as amended by secs. 15, 16, Pub. Law 86-429 (74 Stat. 66, 67), sec. 17, Pub. Law 86-429 (74 Stat. 67))

[F.R. Doc. 60-12015; Filed, Dec. 27, 1960; 8:48 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Miscellaneous Amendments

This part as filed with the FEDERAL REGISTER on June 29, 1955, and as last amended on February 14, 1959, is further amended as follows:

PARAGRAPH 1. Section 601.105 is amended by revising subparagraph (1) of paragraph (b), by adding a new subparagraph (5) to paragraph (b), and by revising subdivision (i) of paragraph (d) (2). These amended provisions read as follows:

§ 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

* * * * *

(b) *Examination of returns*—(1) *General.* The original examination of income, profits, estate, gift, excise, and employment tax returns is a primary function of internal revenue agents in the Audit Division of the office of each district director of internal revenue. Such internal revenue agents are organized in groups, each of which is under the immediate supervision of a group supervisor designated by the district director. Revenue agents and revenue officers (and such other officers or employees of the Internal Revenue Service as may be designated for this purpose by the Commissioner) are authorized to examine any books, papers, records, or memoranda bearing upon matters required to be included in Federal tax re-

turns and to take testimony relative thereto and to administer oaths. See section 7602 of the Code and the regulations thereunder. There are two general types of audit. These are commonly called "office audit" and "field audit". During the audit of a return a taxpayer may be represented before the examining officer by an attorney or agent enrolled to practice before the Internal Revenue Service or by a duly authorized unenrolled person who signed the return as preparer thereof. The representation of a taxpayer by such as unenrolled person, however, is subject to the limitations contained in section 10.7(a)(7) of Department Circular No. 230.

(5) *Technical advice from the National Office*—(1) *Procedure regarding request.* Where the district director decides that an issue requires technical advice from the National Office, the taxpayer will be advised of the proposed referral. If he so desires, the taxpayer may submit a brief of the facts, law and argument to be transmitted with the case to the National Office. Similarly, a taxpayer may request that an issue be referred to the National Office for technical advice on the grounds of lack of uniformity or that the issue is so unusual or complex as to warrant National Office consideration. If the examining officer (or informal conferee, in case of an informal conference) is of the opinion that the circumstances do not warrant such referral, the matter will be submitted to the Chief, Audit Division, for decision. If the Chief, Audit Division, determines that advice from the National Office will not be requested, he will inform the taxpayer, in writing, of his decision.

(2) *Regional post review of examined cases.* Regional commissioners review samples of the examined cases closed in their district offices to assure uniformity throughout their districts in the application of the provisions of the Code, regulations, and rulings, as well as the general policies of the Service. In certain circumstances, such as where substantial errors are found or where there is evidence of fraud or collusion, the regional commissioner has authority to reopen the case.

(d) *Thirty-day letters and protests*—

(1) *General.* * * *

(2) *Protests.* (1) If the taxpayer chooses to file a protest against the proposed determination set forth in the "30-day letter", his protest should be filed in the district director's office and, following review of the protest, the case will be referred to the Appellate Division of the region if that Division has jurisdiction. The taxpayer will also be accorded a conference in the Appellate Division if he requests it. Protests should be filed in duplicate. No particular form of protest has been prescribed. However, instructions for the preparation of protests are sent with the "30-day letter". For a description of the procedure in the Appellate Division, see § 601.106.

PAR. 2. Paragraphs (a) and (c) of § 601.109 are amended to read as follows:

§ 601.109 Bankruptcy and receivership cases.

(a) *General.* (1) Upon the adjudication of bankruptcy of any taxpayer in any liquidating proceeding, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other proceeding under the Bankruptcy Act or the appointment of a receiver for any taxpayer in any receivership proceeding before a court of the United States or of any State or Territory or of the District of Columbia, the assessment of any deficiency in income, profits, estate, or gift tax (together with all interest, additional amounts, or additions to the tax provided for by law) shall be made immediately. See section 6871 of the Code. In such cases the restrictions imposed by section 6213(a) of the Code upon assessments are not applicable. (In the case of an assignment for the benefit of creditors, the assessment will be made under section 6361, relating to jeopardy assessments. See § 601.105(h).) Cases in which immediate assessment will be made include those of taxpayers in receivership or in bankruptcy, agricultural composition, reorganization, arrangement, or wage earner proceedings under chapters I to VII, sections 75, 77, chapters X, XI, XII, and XIII of the Bankruptcy Act. The term "approval of a petition in any other proceeding under the Bankruptcy Act" includes the filing of a petition under section 75 or chapters XI to XIII of the Bankruptcy Act with a court of competent jurisdiction. A fiduciary in any proceeding under the Bankruptcy Act (including a trustee, receiver, debtor in possession, or other person designated by the court as in control of the assets or affairs of a debtor) or a receiver in any receivership proceeding may be required, as provided in regulations prescribed under section 6036 of the Code, to give notice in writing to the district director of his qualification as such. Failure on the part of such fiduciary in a receivership proceeding or a proceeding under the Bankruptcy Act to give such notice, when required, results in the suspension of the running of the period of limitations on the making of assessments from the date of the institution of the proceeding to the date upon which such notice is received by the district director, and for an additional 30 days thereafter. However, in no case where the required notice is not given shall the suspension of the running of the period of limitations on assessment exceed 2 years. See section 6872 of the Code.

(2) Except in cases where departmental instructions direct otherwise, the district director will, promptly after ascertaining the existence of any outstanding Federal tax liability against a taxpayer in any proceeding under the Bankruptcy Act or receivership proceeding, and in any event within the time limited by appropriate provisions of law or the appropriate orders of the court in which such proceeding is pending, file a proof of claim covering such liability

in the court in which the proceeding is pending. Such a claim may be filed regardless of whether the unpaid taxes involved have been assessed. Whenever an immediate assessment is made of any income, estate, or gift tax after the commencement of a proceeding, the district director will send to the taxpayer notice and demand for payment together with a copy of such claim.

(c) *Procedure before Appellate Division not applicable.* A case involving immediate assessment under section 6871 of the Code or an assessment of excise or employment taxes after an adjudication of bankruptcy in a liquidating proceeding or the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other proceeding under the Bankruptcy Act or the appointment of a receiver will not be referred by the district director to a field office of the Appellate Division. Therefore, the taxpayer, or the trustee, receiver, or debtor in possession or other person designated by the court as in control of the assets or affairs of the debtor, may not request consideration of the case by the Appellate Division. If at the time of the adjudication of bankruptcy or the filing or the approval of a petition or the appointment of a receiver, an income, estate, or gift tax case is under consideration by a field office of the Appellate Division, whether before or after issuance of a statutory notice of deficiency, the case will be returned to the district director for assessment (if not previously assessed) and for issuance of the Form 7900 letter and filing proof of claim in any proceeding under the Bankruptcy Act or in a receivership proceeding. Excise and employment tax cases pending in the Appellate Division at such time will likewise be returned to the district director for assessment (if not previously assessed) and for filing proof of claim in any proceeding under the Bankruptcy Act or in a receivership proceeding. Thereafter, the case will not be transferred by the district director to the Appellate Division unless a petition for redetermination of the deficiency has been filed in the Tax Court prior to the adjudication of bankruptcy in a liquidating proceeding or the filing or the approval of a petition in any other proceeding under the Bankruptcy Act or the appointment of a receiver, and the taxpayer or the trustee, receiver, debtor in possession or other person designated by the bankruptcy or receivership court as in control of the debtor's assets or affairs elects to prosecute the proceeding in the Tax Court. A petition for redetermination of a deficiency may not be filed in the Tax Court after the adjudication of bankruptcy, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of a receiver. See section 6871(b) of the Code. However, the Tax Court is not deprived of jurisdiction where the adjudication of

bankruptcy, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of a receiver occurred subsequent to the filing of the petition. In such a case the jurisdiction of the bankruptcy or receivership court and the Tax Court is concurrent.

PAR. 3. Paragraph (f) (2) of § 601.201 is amended to read as follows:

§ 601.201 Rulings and determination letters.

(f) *Instructions with respect to submission of requests for rulings or determination letters.* * * *

(2) If the request is an application for exemption from income tax as an organization described in section 501 (c) or (d) or section 521 of the Code, see paragraph (k) of this section. If the request is with respect to the qualification of a plan under section 401(a) of the Code, see paragraph (l) of this section. Applications for income tax exemption as an organization described in section 501 (c) or (d) of the Code, as well as the information required to be filed with such applications, should be submitted in duplicate. It is not required that any of the other applications or requests described in this subparagraph, or that the information required to be filed with such applications or requests, be submitted in duplicate.

PAR. 4. Paragraph (a) (2) of § 601.202 is amended to read as follows:

§ 601.202 Closing agreements.

(a) *General.* * * *

(2) Closing agreements under section 7121 of the Code may relate to any taxable period ending prior or subsequent to the date of the agreement. With respect to taxable periods ended prior to the date of the agreement, the matter agreed upon may relate to the total tax liability of the taxpayer or it may relate to one or more separate items affecting the tax liability of the taxpayer. A closing agreement may also be entered into in order to provide a "determination", as defined in section 1313 of the Code, and for the purpose of allowing a deficiency dividend deduction under section 547 of the Code. But see also sections 547(c) (3) and 1313(a) (4) of the Code and the regulations thereunder as to other types of "determination" agreements. With respect to taxable periods ending subsequent to the date of the agreement, the matter agreed upon may relate to one or more separate items affecting the tax liability of the taxpayer. A closing agreement with respect to any taxable period ending subsequent to the date of the agreement is subject to any change in or modification of the law enacted subsequent to the date of the agreement and applicable to such taxable period, and each closing agreement shall so recite. Closing agreements may be entered into even though under the agreement the taxpayer is not liable for any tax for the period to which the agreement relates. There may be a series of agreements relating to the tax

liability for a single period. A closing agreement may be entered into in any case in which there appears to be an advantage in having the case permanently and conclusively closed, or where good and sufficient reasons are shown by the taxpayer for desiring a closing agreement and it is determined by the Commissioner or his representatives that the Government will sustain no disadvantage through consummation of such an agreement.

PAR. 5. Section 601.203 is amended by revising paragraph (a) (1), revising subdivisions (iii) and (iv) of paragraph (c) (1), revising subdivision (v) of paragraph (c) (2), and revising paragraph (c) (3). These amended provisions read as follows:

§ 601.203 Offers in compromise.

(a) *General.* (1) The Commissioner may compromise, in accordance with the provisions of section 7122 of the Code, any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense. Certain functions of the Commissioner with respect to compromises of civil cases involving liability under \$5,000 (prior to July 1, 1960) and under \$25,000 (on and after July 1, 1960), and of certain specific penalties involving only the regulatory provisions of the Code and related statutes, have been delegated to district directors of internal revenue. In civil cases involving liability of \$500 or over and in criminal cases the functions of the General Counsel are performed by the Chief Counsel for the Internal Revenue Service. In certain cases these functions are performed in the National Office and in other cases by Regional Counsel. (See also paragraph (c) of this section.)

(c) *Consideration of offer.* (1) * * *

(iii) Accept the offer if it involves a civil liability of \$500 or more, but less than \$5,000 (prior to July 1, 1960) and less than \$25,000 (on and after July 1, 1960), or involves a specific penalty (including in the case of narcotics, smoking opium, and marihuana taxes only those specific penalties which involve delinquency in registration or delinquency in payment), and the Regional Counsel concurs in the acceptance of the offer, or

(iv) Recommend to the National Office the acceptance of the offer if it involves a civil liability of \$5,000 or over (prior to July 1, 1960) and \$25,000 or over (on and after July 1, 1960).

(2) * * *

(v) An offer under the processing jurisdiction of the Regional Counsel which is considered acceptable is either referred to the district director or to the Office of the Chief Counsel in Washington for approval, depending upon the amount of civil liability involved.

(3) The district directors and the Director of the Audit Division of the National Office are authorized to reject any offer in compromise referred for their consideration. Offers considered in the Office of the Chief Counsel in Washington which are not acceptable are rejected by the Commissioner. Offers considered

by Regional Counsel which are not acceptable are rejected by district directors. If an offer is not acceptable, the taxpayer is promptly notified of the rejection of the offer. If an offer is rejected, the sum submitted with the offer is returned by the district director to the proponent. A selective post review of offers rejected by a district director involving liabilities totaling \$5,000 or more is made by each regional commissioner.

PAR. 6. The heading and subheading of Subpart C is amended to read as follows:

Subpart C—Provisions Relating to Distilled Spirits, Wines, Beer, Tobacco Products (Manufactured Tobacco, Cigars, and Cigarettes), Tobacco Materials, Cigarette Papers and Tubes, and Certain Firearms

DISTILLED SPIRITS, WINES, AND BEER

PAR. 7. Section 601.301 is amended to read as follows:

§ 601.301 Imposition of taxes, qualification requirements, and regulations.

(a) *Imposition of taxes.* Subchapter A of Chapter 51 of the Internal Revenue Code of 1954 imposes taxes on distilled spirits (including alcohol), wine, and beer. Except as specifically provided, additional taxes are imposed when distilled spirits and wine are rectified by blending, compounding, etc. Subchapter A of chapter 51 of the Code also imposes taxes on stills and condensers used to produce spirits. Occupational taxes are imposed upon still manufacturers, brewers, rectifiers, dealers in liquors, and as a prerequisite for drawback under section 5134 of the Code, upon manufacturers of non-beverage products.

(b) *Qualification requirements.* Distillers, winemakers, brewers, warehousemen, rectifiers, bottlers, liquor bottle manufacturers, dealers in specially denatured alcohol, users of tax-free and specially denatured alcohol, and wholesalers and importers of liquors, are required to qualify with the Internal Revenue Service, usually by filing notice or application and bond with, and procuring permit from, the assistant regional commissioner (alcohol and tobacco tax) of the region in which operations are to be conducted. Detailed information respecting such qualification, including the forms to be used and the procedure to be followed, is contained in the respective regulations described in paragraph (c) of this section.

(c) *Regulations.* The procedural requirements with respect to matters relating to distilled spirits, wines, and beer which are within the jurisdiction of the Alcohol and Tobacco Tax Division are published in the regulations described in this paragraph. These regulations contain full information as to the general course and method by which the functions concerning liquors are channeled and determined, including the nature and requirements of formal and informal procedures, the forms, records, reports, and other documents required, and the contents of applications, notices, registrations, permits, bonds, and other documents. Supplies of prescribed forms may be obtained from the offices of

assistant regional commissioners (alcohol and tobacco tax), except that Forms 52-A, 52-B, 122, 133, 134, 338, 2051, 2054-2060, 2621, and 2637 must be provided by the users at their own expense; users and commercial printers may procure specimen copies of such forms from such offices. The following is a brief description of the several regulations arranged according to the principal subjects and operations concerned:

(1) *Establishment and operation of distilled spirits plants.* Part 201 of this chapter contains the regulations relating to the location, qualification, construction, arrangement, equipment, and operations (including activities incident thereto) of distilled spirits plants for the production and/or warehousing (including denaturation), rectification, and bottling (including bottling in bond) of distilled spirits.

(2) *Miscellaneous liquor transactions.* Part 170 of this chapter contains miscellaneous regulations relative to:

- (i) Restamping of packages of distilled spirits;
- (ii) Redemption of strip stamps, and stamps denoting payment of tax, purchased prior to January 1, 1955;
- (iii) Refund of tax and duty paid on distilled spirits, wines, rectified products, and beer lost as a result of floods, hurricanes or other disasters;
- (iv) Application of section 6423, Internal Revenue Code of 1954, as amended, to refund or credit of tax on distilled spirits, wines, and beer;
- (v) Regulations in effect on June 30, 1959, which were prescribed on July 1, 1959, as interim regulations;
- (vi) Redemption of unused distilled spirits excise tax stamps and unused rectification tax stamps; and
- (vii) Manufacture and sale of certain compounds, preparations, and products containing alcohol.

(3) *Disposition of substances used in the manufacture of distilled spirits and articles and of containers used for the packaging of distilled spirits.* Part 173 of this chapter contains the regulations relative to the returns and records of the disposition of articles from which distilled spirits may be recovered, of substances of the character used in the manufacture of distilled spirits, and of containers of the character used for the packaging of distilled spirits.

(4) *Manufacture and use of containers of distilled spirits.* Part 175 of this chapter contains the regulations relating to the traffic in containers of distilled spirits of a capacity of not less than one-half pint and not more than five wine gallons. The regulations cover the manufacture, sale, and use of liquor bottles for packaging distilled spirits for other than industrial use; labeling of distilled spirits; reports, and inventories of liquor bottles; imports and exports of liquor bottles; permits and revocation proceedings; reuse or refilling of liquor bottles (see also Part 194 of this chapter); and the purchase, sale and possession of refilled or used liquor bottles.

(5) *Gauging of distilled spirits.* Part 186 of this chapter contains the regulations that prescribe the gauging instruments, and methods or techniques

to be used in measuring distilled spirits (including denatured spirits). Tables are provided for use in making the necessary computation from gauge data.

(6) *Still and condensers.* Part 196 of this chapter contains the regulations relative to the manufacture, taxpayment, removal, use, and registration of stills and condensers, and the exportation or transfer to foreign-trade zones of stills and condensers with benefit of drawback of internal revenue tax or without payment of tax.

(7) *Rules of practice in permit proceedings.* Part 200 of this chapter contains the rules governing the procedure and practice in connection with the disapproval of applications for basic permits, and for the issuance of citations for the suspension, revocation and annulment of such permits under sections 3 and 4 of the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.), and disapproval, suspension, revocation of container, industrial use, operating, withdrawal, and tobacco permits under the Code. Such rules also govern, insofar as applicable, any adversary proceeding involving adjudication required by statute to be determined on the record, after opportunity for hearing, under laws administered by the Alcohol and Tobacco Tax Division.

(8) *Basic permit requirements under the Federal Alcohol Administration Act.* Regulations No. 1 (27 CFR Part 1), issued pursuant to the Federal Alcohol Administration Act, as amended, contain the requirements relative to the issuance under that Act of basic permits to producers, rectifiers, blenders, bottlers, warehousemen, importers, and wholesalers of distilled spirits, wine, or beer, and the amendment, duration, revocation, suspension, or annulment of such permits.

(9) *Bulk sales and bottling of distilled spirits.* Regulations No. 3 (27 CFR Part 3), issued under the Federal Alcohol Administration Act, as amended, contain the requirements relative to bulk sales and bottling of distilled spirits under the Federal Alcohol Administration Act, including the terms of warehouse receipts for distilled spirits in bulk.

(10) *Labeling and advertising of distilled spirits.* Regulations No. 5 (27 CFR Part 5), issued under the Federal Alcohol Administration Act, as amended, contain the requirements relative to the labeling and advertising of distilled spirits under the Federal Alcohol Administration Act, including standards of identity for distilled spirits, standards of fill for bottles of distilled spirits, and the issuance of certificates of label approval and certificates of exemption from label approval.

(11) *Credit period to be extended to retailers of alcoholic beverages.* Regulations No. 8 (27 CFR Part 8) issued under the Federal Alcohol Administration Act, as amended, contain the requirements relative to the credit period which may be extended by vendors to retailers of alcoholic beverages.

(12) *Production and removal of wine.* Part 240 of this chapter contains the regulations relative to the establishment and operation of bonded wine cellars, in-

cluding bonded wineries, for the production, cellar treatment, and storage of wines, including amelioration, sweetening, addition of wine spirits (including distillates containing aldehydes), blending, and other cellar treatment; removals; taxpayment; return of unmerchanted taxpaid wine; and use of wine for distilling material and manufacture of vinegar.

(13) *Bottling or packaging of taxpaid wine.* Part 231 of this chapter contains the regulations relative to the establishment, qualification, and operations of taxpaid wine bottling houses on premises other than those of a plant operated under Part 201 of this chapter, and to the bottling and packaging of taxpaid United States and foreign wines at such premises.

(14) *Nonindustrial use of distilled spirits and wine.* Regulations No. 2 (27 CFR Part 2), issued under the Federal Alcohol Administration Act, as amended, specify what uses of distilled spirits and wine are considered "nonindustrial", as that term is used in section 17 of the Federal Alcohol Administration Act.

(15) *Labeling and advertising of wine.* Regulations No. 4 (27 CFR Part 4), issued under the Federal Alcohol Administration Act, as amended contain the requirements relative to the labeling and advertising of wine under the Federal Alcohol Administration Act, including standards of identity for wine, standards of fill for containers of wine, the withdrawal of imported wine from customs custody, and the issuance of certificates of label approval and certificates of exemption from label approval.

(16) *Establishment and operations of breweries.* Part 245 of this chapter contains the regulations relating to the production, taxpayment, and withdrawal of beer and cereal beverages. The regulations cover the location, construction, equipment, and operations of breweries; and the qualification of such establishments, including the ownership, control, and management thereof.

(17) *Labeling and advertising of malt beverages.* Regulations No. 7 (27 CFR Part 7), issued under the Federal Alcohol Administration Act, as amended, contain the requirements relative to the labeling and advertising of malt beverages (beer) under the Federal Alcohol Administration Act, and the issuance of certificates of label approval.

(18) *Liquor dealers.* Part 194 of this chapter contains the regulations relative to the occupational taxes imposed on wholesale and retail dealers in liquors, wholesale and retail dealers in beer, and limited retail dealers; restrictions on purchases of distilled spirits; reuse or refilling of liquor bottles (see also Part 175 of this chapter); sales or possession of refilled or used liquor bottles; and repackaging of alcohol for industrial use.

(19) *Production of vinegar by the vaporizing process.* Part 195 of this chapter contains the regulations relating to the production of vinegar by the vaporizing process (fermentation and distillation of alcoholic liquid). The regulations cover the location, construction, equipment, qualification, and operation of vinegar plants.

(20) *Drawback of tax on spirits used in nonbeverage products.* Part 197 of this chapter contains the regulations which relate to obtaining drawback of internal revenue tax on distilled spirits used in the manufacture or production of medicines, medicinal preparations, food products, flavors, or flavoring extracts, which are unfit for beverage purposes.

(21) *Production of volatile fruit-flavor concentrates.* Part 198 of this chapter contains the regulations relating to the manufacture, storage, removal, sale, transportation, and use of volatile fruit-flavor concentrates and includes provisions regarding the location, use, qualification, and operations of concentrate plants.

(22) *Inducements furnished to retailers.* Regulations No. 6 (27 CFR Part 6), issued under the Federal Alcohol Administration Act, as amended, contain the requirements relative to the furnishing, giving, renting, lending, or selling of equipment, fixtures, signs, supplies, money, services, or other things of value to retailers of distilled spirits, wine, and malt beverages, by other members of the liquor industry (principally vendors), including the furnishing of samples and advertising cuts.

(23) *Distribution and use of denatured spirits.* Part 211 of this chapter contains the regulations relating to the procurement, use, disposition, and recovery of denatured alcohol, specially denatured rum, and articles containing denatured spirits; and includes requirements in respect to industrial use and withdrawal permits; and the packaging, labeling, sale, rebottling, and reprocessing of articles containing specially denatured spirits.

(24) *Formulas for denatured spirits.* Part 212 of this chapter contains the regulations relating to the formulation of completely denatured alcohol, specially denatured alcohol, and specially denatured rum; to the uses of specially denatured spirits; and to the specifications for denaturants. The procedural requirements relative to the production of denatured alcohol and specially denatured rum are prescribed in Part 201 of this chapter, and those relative to the distribution and use of denatured alcohol and specially denatured rum are prescribed in Part 211 of this chapter.

(25) *Distribution and use of tax-free spirits.* Part 213 of this chapter contains the regulations relating to tax-free alcohol and covers the procurement, storage, use, and recovery of such alcohol; and includes requirements in respect to industrial use and withdrawal permits.

(26) *Liquors and articles from Puerto Rico and the Virgin Islands.* Part 250 of this chapter contains the regulations relating to the production, bonded warehousing, and withdrawal of distilled spirits, and denatured spirits, and the manufacture of articles in Puerto Rico and the Virgin Islands to be brought into the United States free of tax and the collection of internal revenue taxes on taxable alcoholic products coming into the United States from Puerto Rico and the Virgin Islands.

(27) *Importation of liquors.* Part 251 of this chapter contains the substantive and procedural requirements relative to the importation of distilled spirits, wines, and beer into the United States from foreign countries including special (occupational) and commodity taxes, permits, marking, branding, and labeling, and stamping of containers and packages.

(28) *Exportation of liquors.* Part 252 of this chapter contains the regulations relating to exportation, lading for use on vessels and aircraft, and the transfer to a foreign-trade zone or a manufacturing bonded warehouse, class six, of distilled spirits (including specially denatured spirits), beer, and wine, whether without payment of tax, free of tax, or with benefit of drawback, and includes requirements with respect to removal, shipment, lading, deposit, evidence of exportation, losses, claims, and bonds.

PAR. 8. Paragraph (a) of § 601.302 is amended to read as follows:

§ 601.302 Taxes.

(a) *Collection.* Taxes on distilled spirits, wines, beer, and rectified products are paid by returns. If the person responsible for paying the tax has filed a proper bond with the assistant regional commissioner (alcohol and tobacco tax), he may file semimonthly returns, with proper remittances, to cover the taxes incurred on distilled spirits, wines, beer and rectified products during such semimonthly periods. If the taxpayer is not qualified to defer taxpayment, or has been placed on a prepayment basis by the assistant regional commissioner, he must repay the tax on the distilled spirits, wines, beer or rectified products. Distilled spirits and rectification tax returns are filed with an officer designated by the assistant regional commissioner (alcohol and tobacco tax), or with the district director of internal revenue when so directed by the assistant regional commissioner, except that where a remittance is in cash the return must be filed with the district director. Returns of tax on beer and wine are filed with the district director in all cases. The forms for filing these tax returns are furnished to industry members by the assistant regional commissioner (alcohol and tobacco tax). Special tax stamps are issued to denote the payment of special (occupational) taxes by liquor dealers, brewers, rectifiers, still manufacturers, and manufacturers of nonbeverage products; such stamps are required to be posted in the taxpayer's place of business as evidence of taxpayment. Special tax stamps are also issued to denote payment of the commodity tax on stills and condensers, and are required to be cancelled and secured to the article or furnished to the user of the apparatus for retention at the premises where such apparatus is set up, available for inspection by internal revenue officers. Detailed information respecting the payment of tax on liquors and the payment of occupational and commodity taxes, including the forms to be used and the procedure to be followed, is contained in the respective regulations described in § 601.301(c).

PAR. 9. Section 601.303 is amended to read as follows:

§ 601.303 Claims.

(a) *Claims for remission.* When distilled spirits (including distilling material and denatured spirits) or beer on which the tax has not been paid or determined is lost, and the person liable for payment of the tax thereon desires to be relieved from such liability, he may file claim on Form 2635 for remission of tax on the quantity that was lost. The assistant regional commissioner may, in any event, require such a claim to be filed, and will require it if circumstances indicate that the loss was caused by theft or, in the case of distilled spirits (including distilling material), unauthorized voluntary destruction. On receipt of a claim the assistant regional commissioner makes a factual determination, and notifies the claimant of allowance or rejection of his claim. If the claim is rejected, and circumstances so warrant, the assistant regional commissioner will take appropriate steps to collect the tax.

(b) *Claims for abatement.* When the tax on distilled spirits, wine, beer, or firearms, or the rectification tax is assessed and the taxpayer thinks that the tax is not due under the law, he may file a claim for abatement of the tax on Form 843 with the district director of internal revenue or, where required by regulations, with the assistant regional commissioner (alcohol and tobacco tax). Forms 843 may be procured from the district director or the assistant regional commissioner. The district director forwards the claim to the assistant regional commissioner (alcohol and tobacco tax) for consideration, and the district director may call upon the taxpayer to file a bond in double the amount of the tax in order to insure collection of the tax if the claim is rejected. When the claim is acted upon, both the taxpayer and the district director are notified of the allowance or rejection of the claim. If the claim is rejected, the district director will proceed to collect the tax.

(c) *Claims for refund.*—(1) *Taxes illegally, erroneously, or excessively collected.* A claim on Form 843 for refund of taxes illegally, erroneously, or excessively collected may be filed by a taxpayer with the district director of internal revenue to whom the tax was paid. Such claim must be filed within three years (two years under certain circumstances) after the date of payment of the tax. The district director forwards the claim to the assistant regional commissioner (alcohol and tobacco tax) for consideration. If the claim is rejected, the taxpayer is notified of the rejection by registered or certified mail, and he may then bring suit in the United States District Court or the Court of Claims for recovery of the tax. Such suits must be filed generally within two years from the date of mailing of the rejection notice. If the claim is allowed, an appropriate notice of allowance with a check for the amount of the refund and allowable interest is forwarded to the taxpayer; however, if there are other unpaid taxes outstanding against the

taxpayer, the overpayment may be applied to the outstanding taxes and the balance, if any, refunded.

(2) *Taxes on liquors lost, destroyed, returned to bond, or taken as samples by the United States.* A taxpayer may, subject to the conditions in the appropriate regulations, file claim on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) for refund of tax paid on (i) spirits returned to bonded premises, lost in rectification or bottling operations, lost by accident or disaster, or taken as samples by the United States, or (ii) wine returned to bond a unmerchable, or lost by disaster, or (iii) beer withdrawn from market, or lost by disaster. If the claim is allowed, a notice of allowance with a check for the amount of the refund is forwarded to the claimant; except, that where there are any unpaid taxes outstanding against the claimant, the refund may be applied to the outstanding taxes and a check for the balance, if any, forwarded to the claimant. If the claim is rejected, a notice giving the reasons for rejection is forwarded to the claimant.

(d) *Claims for allowance, credit, or relief.* A qualified permittee, manufacturer, or proprietor may, subject to the conditions in the appropriate regulations, file claim on Form 2635 with the assistant regional commissioner (alcohol and tobacco tax) for allowance of loss, credit of tax, or relief from tax liability, as applicable, on (1) spirits returned to bonded premises, lost or destroyed on bonded premises or in transit thereto, or lost in rectification or bottling operations; (2) wine lost or destroyed on bonded premises or in transit thereto, and unmerchable domestic wine returned to bond; (3) beer withdrawn from the market, lost (other than by theft), or destroyed by fire, casualty, or act of God; (4) denatured spirits lost or destroyed in bond, or lost on the premises of a qualified dealer or user or in transit to such premises; and (5) tax-free spirits lost on the premises of a qualified user or in transit to such premises.

(e) *Claims for payment—disaster losses.* When distilled spirits, wines, rectified products, or beer held or intended for sale is lost, rendered unmarketable, or condemned as a result of a "major disaster", the person holding such product for sale at that time may, subject to the conditions in the appropriate regulations, file claim on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) of the region in which the product was lost, rendered unmarketable, or condemned for payment of an amount equal to the internal revenue taxes paid or determined and any customs duties paid thereon. Claims must be filed within 6 months from the date on which the President makes the determination that the disaster has occurred.

PAR. 10. Section 601.304 is amended to read as follows:

§ 601.304 Preparation and filing of claims.

(a) *Distilled spirits at distilled spirits plants.* Procedural instructions in respect of claims for remission, abatement,

credit, or refund of tax on spirits (including denatured spirits) lost or destroyed on or lost in transit to, or on spirits returned to, the premises of a distilled spirits plant are contained in Part 201 of this chapter. It is not necessary to file a claim for credit of tax on taxpaid samples taken by internal revenue officers from distilled spirits plants, as the assistant regional commissioner will allow credit, without claim, for tax on such samples.

(b) *Specially denatured spirits.* Procedural instructions in respect of claims for allowance of loss on specially denatured spirits lost on the premises of a bonded dealer or user, or while in transit to such premises, are contained in Part 211 of this chapter.

(c) *Tax-free alcohol.* Procedural instructions in respect of claims for allowance of loss on tax-free alcohol lost on the premises of a qualified user, or while in transit to such premises, are contained in Part 213 of this chapter.

(d) *Wine spirits and wine at bonded wine cellar.* Procedural instructions in respect of claims for (1) remission of tax on wine spirits lost on the premises of a bonded wine cellar or in transit thereto, (2) allowance of losses of wine in bond, and (3) credit or refund of tax paid on unmerchable domestic wine returned to bond are contained in Part 240 of this chapter.

(e) *Beer.* Procedural instructions in respect of claims for refund or credit of tax which has been paid (or allowance, credit, or relief of tax liability if the tax has not been paid) on domestic beer removed from the market or lost or destroyed by fire, casualty, or act of God are contained in Part 245 of this chapter.

(f) *Distilled spirits, wines, or beer for export.* Procedural instructions in respect of claims for (1) drawback of internal revenue tax on distilled spirits or wines, for export, use as supplies on certain vessels or aircraft, deposit in a foreign-trade zone or customs manufacturing bonded warehouse and on beer removed for export, use as supplies on certain vessels and aircraft, or transfer to a foreign-trade zone, and (2) remission of tax on distilled spirits, specially denatured spirits, wines, or beer, withdrawn without payment of tax and lost during transportation to the port of export, manufacturing bonded warehouse, vessel or aircraft, or foreign-trade zone, are contained in Part 252 of this chapter.

(g) *Miscellaneous.* Procedural instructions are contained in Part 170 of this chapter in respect of claims for—

(1) Redemption of (i) unused stamps denoting payment of tax on beer and wines, and (ii) unused strip stamps procured for bottled spirits under the provisions of sections 2803(b) and 2903(d) of the Internal Revenue Code of 1939,

(2) Refund of tax and duty paid on distilled spirits and wines lost as a result of the hurricanes of 1954,

(3) Credit or refund of tax assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or in an excessive amount, on distilled spirits, wines, and beer,

(4) Payment of an amount equal to the internal revenue tax paid on beer

lost by reason of the floods of 1951 or hurricanes of 1954,

(5) Payment of an amount equal to the internal revenue tax paid or determined and customs duties paid on distilled spirits, wines, rectified products, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of a major disaster occurring in the United States after December 31, 1954, and

(6) Redemption of unused distilled spirits excise tax stamps or unused rectification tax sheet stamps.

(h) *Special taxes.* Procedural instructions in respect of claims for abatement of assessments or refund of overpayments of liquor dealers occupational taxes and penalties are contained in Part 194 of this chapter. When claim is filed for refund of an occupational tax for which a stamp was issued, the stamp (or a Certificate in Lieu of Lost or Destroyed Special Tax Stamp, accompanied by affidavits attesting to loss or destruction of the stamp) must be surrendered with the claim. Such claims must be submitted within three years from the date of payment of the tax.

(i) *Low wines at vinegar plants.* Procedural instructions in respect of claims for remission of tax on low wines (distilled spirits) lost at vinegar plants producing vinegar by the vaporizing process are contained in Part 195 of this chapter.

(j) *Stills and condensers.* Procedural instructions in respect of claims for drawback of the internal revenue tax paid on stills and condensers which have been exported or deposited in a foreign-trade zone for exportation, destruction, or storage therein pending exportation, are contained in Part 196 of this chapter.

(k) *Distilled spirits used in nonbeverage products.* Procedural instructions in respect of claims for drawback of tax on distilled spirits used in the manufacture of medicines, medicinal preparations, food products, flavors, or flavoring extracts which are unfit for beverage purposes, are contained in Part 197 of this chapter.

PAR. 11. Paragraph (a) of § 601.305 is amended to read as follows:

§ 601.305 Offers in compromise.

(a) *Liability under Internal Revenue Code.* Persons desiring to submit offers in compromise in order to avoid forfeiture or prosecution proceedings, and taxpayers who disclaim liability for the amount of taxes assessed, or claim inability to pay the taxes in full, may submit offers in compromise to the district director of internal revenue or to an internal revenue officer. The Director, Alcohol and Tobacco Tax Division, has the authority to accept or reject offers in compromise of liability to forfeiture of personal property seized in connection with liquor, firearms, tobacco, and wagering tax violations, and each assistant regional commissioner (alcohol and tobacco tax) has the authority to accept or reject offers in compromise of (1) tax liabilities arising from (i) the illegal production of untaxpaid distilled spirits, wines or beer, and (ii) the failure to file

returns of, or to pay, occupational taxes with respect to distilled spirits, wines, beer, or firearms, and (iii) the failure to pay firearms "making" or transfer taxes, and (2) criminal liabilities of retail dealers in liquor arising from violations of the internal revenue laws relating to liquor, including the reuse or refilling of liquor bottles. The Commissioner accepts or rejects all other offers in compromise except those in compromise of violations under paragraph (b) of this section. (For offers in compromise generally, see § 601.203.) Form 656 (Rev. 7-57) is used in all cases regardless of whether the amount of the offer is tendered in full at the time the offer is filed or the amount of the offer is to be paid by deferred payment or payments. Offers received by the district director are forwarded to the assistant regional commissioner (alcohol and tobacco tax) for consideration and appropriate action. When the offer is acted upon, the district director and the proponent are notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer is returned to the proponent, and forfeiture, prosecution, or collection proceedings are resumed. If the offer is accepted, the taxpayer is notified and the case is closed. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does acceptance of an offer in compromise of criminal liabilities remit civil liabilities.

PAR. 12. Section 601.306 is amended to read as follows:

§ 601.306 Application for approval of interlocking directors and officers under section 8 of the Federal Alcohol Administration Act.

Any person who is an officer or director of a corporation now engaged in business as a distiller, rectifier or blender of distilled spirits, or of an affiliate thereof, who desires to take office in other companies similarly engaged, must obtain permission to do so from the Director of the Alcohol and Tobacco Tax Division. Applications for such permission to take office shall be prepared and filed in accordance with instructions available from the assistant regional commissioner (alcohol and tobacco tax) or from the Director of the Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C.

PAR. 13. The subheading preceding § 601.311 is amended to read as follows:

TOBACCO PRODUCTS (MANUFACTURED TOBACCO, CIGARS, AND CIGARETTES), TOBACCO MATERIALS, AND CIGARETTE PAPERS AND TUBES

PAR. 14. Section 601.311 is amended to read as follows:

§ 601.311 Imposition of taxes; regulations.

(a) *Taxes.* Subchapter A of chapter 52 of the Internal Revenue Code of 1954, as amended, imposes taxes on manufactured tobacco, cigars, cigarettes, and cigarette papers and tubes manufactured in or imported into the United States.

(b) *Regulations.* The procedural requirements with respect to matters

relating to tobacco are contained in the regulations listed below:

(1) Part 200 of this chapter relates to the procedure and practice in connection with the disapproval of applications for permits, and the suspension and revocation of permits, under chapter 52 of the Code.

(2) Part 253 of this chapter relates to the removal, under bond, of tobacco products (manufactured tobacco, cigars, and cigarettes) and cigarette papers and tubes, without payment of tax, from domestic factories and export warehouses for delivery to foreign-trade zones.

(3) Part 270 of this chapter relates to the taxes on cigars and cigarettes and to the operations of manufacturers and importers of, and dealers in, such products.

(4) Part 275 of this chapter relates to the taxes on manufactured tobacco and to the operations of manufacturers and importers of, and dealers in, such products.

(5) Part 280 of this chapter relates to the operations of dealers in tobacco materials and to the purchase and sale of such materials.

(6) Part 285 of this chapter relates to the taxes on cigarette papers and tubes and to the operations of manufacturers and importers of such articles.

(7) Part 290 of this chapter relates to the exportation (including supplies for vessels and aircraft) of tobacco materials, tobacco products (manufactured tobacco, cigars, and cigarettes), and cigarette papers and tubes, without payment of tax, or with benefit of drawback of tax, and to the operations of export warehouse proprietors.

(8) Part 295 of this chapter relates to the removal of tobacco products (manufactured tobacco, cigars, and cigarettes) and cigarette papers and tubes, without payment of tax, for use of the United States.

(9) Part 296 of this chapter relates to the provisions of a miscellaneous nature or not of continuing application. Included are regulations relating to the limitations imposed by section 6423 of the Code on the refund or credit of tax paid or collected on tobacco materials, tobacco products, and cigarette papers and tubes; to losses of tobacco products and cigarette papers and tubes caused by disasters; and to temporary rules and procedures for taxpayment of tobacco products by return.

PAR. 15. Section 601.312 is amended to read as follows:

§ 601.312 Qualification and bonding requirements.

(a) *Manufacturers of tobacco products and proprietors of export warehouses.* Every person, before commencing business as a manufacturer of tobacco products or as a proprietor of an export warehouse, is required to qualify with the Internal Revenue Service by making application for permit and filing bond and other required documents with, and obtaining a permit from, the assistant regional commissioner (alcohol and tobacco tax) for the region in which operations are to be conducted.

(b) *Manufacturers of cigarette papers and tubes and dealers in tobacco materials.* Every person, before commencing business as a manufacturer of cigarette papers and tubes or as a dealer in tobacco materials, is required to qualify with the Internal Revenue Service by filing bond and other required documents with the assistant regional commissioner (alcohol and tobacco tax) for the region in which operations are to be conducted.

(c) *Proprietors of customs warehouses.* Every proprietor of a customs bonded manufacturing warehouse, Class 6, who desires to remove cigars from his warehouse for domestic consumption is required to file a bond with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the customs warehouse is located and otherwise comply with the provisions of chapter 52 of the Code and regulations thereunder. A proprietor of such a warehouse who desires to remove tax-exempt cigars, for exportation (including supplies for vessels and aircraft) or for delivery for subsequent exportation, is also required to file a bond. However, an export bond is not required when a customs warehouse proprietor has in effect a bond to cover removals for domestic consumption.

(d) *Drawback of tax.* Taxpaid tobacco products and cigarette papers and tubes may be exported with benefit of drawback of tax. Drawback may be allowed only to the person who paid the tax on such articles and who files claim and otherwise complies with the provisions contained in the applicable regulations referred to in § 601.311. As a condition precedent to the allowance of any drawback claim, the claimant is required to file a bond in an amount not less than the amount of tax covered in the claim.

(e) *General.* Detailed information relating to the qualification and bonding requirements, including the forms to be used and the procedure to be followed, is fully set forth in the regulations referred to in § 601.311.

PAR. 16. Section 601.313 is amended to read as follows:

§ 601.313 Collection of taxes.

(a) *Tobacco products.* Taxes on tobacco products are paid by the manufacturer on the basis of a return. If the manufacturer has filed a proper bond, he may defer payment at the time of removal and file semimonthly returns to cover the taxes. If the manufacturer has not filed such a bond or if he has defaulted in any way in paying his taxes, he is required to file a prepayment return prior to removal of such products, and to continue so doing until the assistant regional commissioner (alcohol and tobacco tax) finds that the revenue will not be jeopardized by deferred payment. Taxes on cigars manufactured in a customs bonded manufacturing warehouse, Class 6, are paid by the proprietor on the basis of a return filed for each day on which cigars are removed from such warehouse. Taxes on imported tobacco products are paid by the importer on the basis of a return filed for, and prior to, each removal from customs custody. Tax returns, with remittances, are filed with the appropriate district

director of internal revenue. Internal revenue taxes on noncommercial importations of tobacco products in passengers' baggage in excess of the quantity exempted from tax by law and customs regulations, or by mail where the value does not exceed \$250, are paid by the importer on the basis of a return filed with the collector of customs in accordance with customs requirements.

(b) *Cigarette papers and tubes.* Taxes on cigarette papers and tubes are paid by the manufacturer on the basis of a monthly return. Taxes on imported cigarette papers and tubes are paid by the importer on the basis of a return filed for, and prior to, each removal from customs custody. Tax returns, with remittances, are filed with the appropriate district director of internal revenue.

(c) *General.* Detailed information about the payment of taxes on tobacco products and cigarette papers and tubes, including the forms to be used, records to be kept, and reports and inventories to be filed, is contained in the respective regulations referred to in § 601.311.

PAR. 17. Section 601.314 is amended to read as follows:

§ 601.314 Assessments.

When additional or delinquent tax liability on tobacco materials, tobacco products, and cigarette papers and tubes is disclosed by an investigation or by an examination of the taxpayer's records, a notice (except where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error) is forwarded to the taxpayer advising him of the basis for, and amount of, the liability and affording him an opportunity to show cause, in writing, against assessment.

PAR. 18. Section 601.315 is amended to read as follows:

§ 601.315 Claims.

(a) *Abatement of assessment.* Abatement of the unpaid portion of an assessment of any tax on tobacco materials, tobacco products, and cigarette papers and tubes, or any liability in respect thereof, may be allowed to the extent that such assessment is excessive in amount, is assessed after expiration of the applicable period of limitation, or is erroneously or illegally assessed. The taxpayer against whom such assessment has been made may file a claim for abatement of the tax on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the tax or liability was assessed.

(b) *Allowance of tax.* Relief from the payment of tax on tobacco products and cigarette papers and tubes may be extended to a manufacturer by allowance of the tax, where such articles, after removal from the factory upon determination of tax and prior to the time for payment of such tax, are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer who removed such articles, or are withdrawn by him from the market. A claim

for allowance is filed with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the tobacco products and cigarette papers and tubes were removed from the factory. A manufacturer may not anticipate allowance of his claim by making an adjusting entry in a tax return, pending consideration and action on the claim by the assistant regional commissioner.

(c) *Remission of tax liability.* Remission of tax liability on tobacco products and cigarette papers and tubes may be extended to a manufacturer or export warehouse proprietor liable for the tax, where such articles, before removal, or after removal for tax-exempt purposes (including transfers in bond), are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer or export warehouse proprietor. A claim for remission of such tax liability is filed with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the factory or warehouse is located.

(d) *Refund of tax.* Taxes paid be return, or otherwise, on tobacco products and cigarette papers and tubes lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer, importer, or export warehouse proprietor, or withdrawn by him from the market, may be refunded. A claim for refund of tax is filed on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the tax was paid. If tax was paid in more than one region, a claim may be filed with the assistant regional commissioner for any one of the regions in which tax was paid.

(e) *Losses caused by disaster.* Payment of an amount equal to the amount of internal revenue taxes paid or determined and customs duties paid on tobacco products and cigarette papers and tubes removed from the factory or released from customs custody, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of a "major disaster" as determined by the President of the United States, may be made only if, at the time of the disaster, such articles were being held for sale by the claimant. A claim for payment of the internal revenue taxes for such losses is filed on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) for the internal revenue region in which the articles were lost, rendered unmarketable, or condemned. A separate claim in respect of customs duties is also filed on Form 843 with the same assistant regional commissioner.

(f) *Drawback of tax.* Drawback may be allowed only to the person who paid the tax on tobacco products and cigarette papers and tubes which are shipped to a foreign country, Puerto Rico, and the Virgin Islands, or a possession of the United States. A claim for drawback of tax is filed on Form 2147 with the assistant regional commissioner (alcohol and tobacco tax) for the region in which such articles covered by the claim are held by the claimant.

(g) *Redemption of stamps.* Tobacco products tax stamps which have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner of such stamps has no use, may be redeemed. A claim for redemption of such stamps is filed on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the stamps were purchased.

(h) *General.* Detailed information as to the requirements necessary to be complied with and the procedure to be followed in the filing of a claim, the forms to be used, the time within which a claim may be filed, and the supporting documents which must be submitted with a claim, is contained in the applicable regulations referred to in § 601.311.

PAR. 19. Section 301.316 is amended to read as follows:

§ 601.316 Offers in compromise.

Persons desiring to submit offers in compromise of civil or criminal liabilities arising under chapter 52 of the Code may submit such offers in compromise to the district director of internal revenue or to an internal revenue officer. Each assistant regional commissioner (alcohol and tobacco tax) has the authority to accept or reject such offers in compromise, except that the Director, Alcohol and Tobacco Tax Division, has the authority to accept or reject offers in compromise of liability to administrative forfeiture of personal property seized in connection with tobacco violations. (For offers in compromise generally, see § 601.203.)

PAR. 20. Section 601.317 is amended to read as follows:

§ 601.317 Rulings.

Any person who is in doubt about any matter arising in connection with his operations and transactions in the tobacco tax area may request a ruling thereon by addressing a letter to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., or to the assistant regional commissioner (alcohol and tobacco tax) for the region in which his business is located.

PAR. 21. Section 601.318 is amended to read as follows:

§ 601.318 Forms.

Detailed information as to all forms prescribed for use in connection with tobacco taxes is contained in the regulations referred to in § 601.311(b). Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from assistant regional commissioners (alcohol and tobacco tax).

PAR. 22. Paragraph (c) of § 601.324 is amended to read as follows:

§ 601.324 Claims.

(c) Claims for the abatement or refund of occupational taxes and penalties erroneously assessed or collected, and claims for redemption of stamps for occupational taxes are prepared and filed

in accordance with the procedure set forth in § 601.304(h).

PAR. 23. Paragraph (d) of § 601.401 is amended by revising subparagraphs (1) and (3) to read as follows:

§ 601.401 Employment taxes.

(d) *Special refunds of employee social security tax.* (1) In the case of an employee receiving wages from more than one employer during the calendar year, amounts may be deducted and withheld as employee social security tax (that is, employee tax under the Federal Insurance Contributions Act) with respect to wages in excess of \$4,800 (\$4,200 for certain calendar years prior to 1959). Under certain conditions, the employee may receive a so-called "special refund" of the amount of employee social security tax deducted and withheld from wages in excess of such amount. An employee who is entitled to a special refund of employee tax with respect to wages received during a calendar year, and who is required to file an income tax return for such calendar year (or for his last taxable year beginning in such calendar year), may obtain the benefits of such special refund only by claiming credit for such special refund on such income tax return in the same manner as if such special refund were an amount deducted and withheld as income tax at source on wages.

(3) If an employee entitled to a special refund of employee social security tax is not required to file an income tax return for the year in which such special refund may be claimed as a credit, he may file a claim for refund of the excess social security tax on Form 843. Claims must be filed with the district director of internal revenue for the district in which the employee resides.

PAR. 24. Section 601.402 is amended by revising paragraph (a) (2) (i), revising paragraph (c) (1), and revising subparagraphs (1) and (2) of paragraph (d). These amended provisions read as follows:

§ 601.402 Sales taxes collected by return.

(a) *General.* * * *

(2) * * *

- (i) Automotive and related items.
Motor vehicles.
Tires, tubes and tread rubber.
Petroleum products.

(c) *Returns, refunds, and credits—*
(1) *Returns.* The sales taxes referred to in paragraph (a) of this section are collected by means of returns. Any person liable for tax is required to file returns with the district director of internal revenue for the district in which the principal place of business of such person is located. Subject to applicable regulations and pursuant to agreement, a supplier may file returns and pay for the retailer the taxes imposed on the sale of jewelry and related items, furs, toilet preparations, and luggage, handbags, etc. A procedure similar to the Depositary Receipt procedure with

respect to the payment of certain Federal employment taxes, described in paragraph (a) (5) of § 601.401, is prescribed with respect to the sales taxes referred to in paragraph (a) of this section. For information relating to the use of depositary receipts for the payment of such taxes, see the applicable regulations and the instructions on Form 720, Quarterly Federal Excise Tax Return.

(d) *Registration and bonding requirements.* (1) Under temporary regulations effective January 1, 1959, in general, an article may be sold tax-free under chapter 32 of the Code by the manufacturer for certain uses, provided the seller, first purchaser and second purchaser, as the case may be, have been registered. In the case of State governments, registration is optional. Also, the requirements for registration do not apply to sales or purchases by the United States; to sales or purchases of mechanical pencils, fountain pens, and ball point pens for export; or to a purchaser located in a foreign country or a possession of the United States in the case of the sale of any article for export. Any person who has been issued a certificate of registry prior to January 1, 1959, which has not been revoked, is registered for purposes of the temporary regulations. Any other person entitled to sell or purchase articles tax free under such regulations who has not previously registered, may register by completing Form 637 setting forth the prescribed information and forwarding it to his district director. Such person shall be considered to be registered for purposes of making such tax-free sales or purchases upon receipt of a validated Form 637 from his district director.

(2) If not previously registered, producers and importers of gasoline and manufacturers of lubricating oil (including wholesale distributors of gasoline who qualify as producers under applicable regulations) must, before incurring any liability for tax under section 4081 or 4091 of the Code, make application for registration on Form 637. The application for registration must be accompanied by a bond on Form 928 in a sum equivalent to the approximate amount of tax which might be incurred by the taxpayer during an average 3-month period at the rates of tax then in effect, but in no case shall the bond be for less than \$2,000. Detailed instructions as to the filing of applications for registration and the submission of bonds by producers and importers of gasoline and manufacturers of lubricating oil are prescribed in applicable regulations.

PAR. 25. Section 601.403 is amended by revising subparagraphs (1), (2), and (7) of paragraph (a), and by revising subparagraph (2) of paragraph (c). These amended provisions read as follows:

§ 601.403 Miscellaneous excise taxes collected by return.

(a) *General.* Miscellaneous excise taxes collected by return include the following:

(1) *Admissions, cabaret, dues and initiation fees.* Subchapter A of chapter 33 of the Internal Revenue Code imposes a tax on admissions (including a tax on amounts charged by ticket brokers, box office employees, and others in excess of the established price), and on charges made by cabarets, roof gardens and other similar places. Where cabaret tax is imposed on a concessionaire in a cabaret, the proprietor is required to collect and report such tax. Subchapter A of chapter 33 also imposes certain taxes on amounts paid as dues or initiation fees to any social, athletic, or sporting club or organization.

(2) *Communications.* Subchapter B of chapter 33 of the Code imposes a tax on amounts paid for general telephone service, toll telephone service, telegraph service, teletypewriter exchange service, wire mileage service and wire and equipment service.

(7) *Coconut and other vegetable oils.* Chapter 37 of the Code imposes a tax upon the first domestic processing of coconut oil, palm oil, palm-kernel oil, fatty acids derived from any of the foregoing oils, salts from any of the foregoing or any combination or mixture containing a substantial quantity of any one or more of such oils, fatty acids or salts. See however Public Law 85-235 and Public Law 86-37 as amended by Public Law 86-432 for suspension of the tax for certain periods.

(c) *Collection of tax—*(1) *Imposed taxes.* * * *

(2) *Collected taxes.* The other miscellaneous excise taxes referred to in this section are imposed on the person making the payment for the admission, telephone, transportation or other service involved. These taxes are required to be collected by the theater, telephone company, railroad, or other person receiving the payment. All taxes collected in this manner are held by the collecting agent in trust for the United States until deposited in accordance with the Depositary Receipt procedure or paid over to the district director of internal revenue. The collecting agencies are required to file returns and the tax is payable, without notice from the district director, at the time fixed for filing the returns. If the person from whom the tax is required to be collected refuses to pay it or, if for any reason it is impossible for the collecting agency to collect the tax from such person, the collecting agency is required to report to the district director of internal revenue for the district in which its returns are required to be filed the name and address of such person, the nature of the service or facility rendered, the amount paid therefor, and the date on which paid. Upon receipt of this information the district director will proceed against the person to whom the facilities were provided or the services rendered to assert the amount of tax due, affording such person the same informal conference, protest and appellate rights as are available to other excise taxpayers.

PAR. 26. Section 601.404 is amended by revising paragraph (b) (1), paragraph (d) (2), and paragraph (h) (1). These amended provisions read as follows:

§ 601.404 Miscellaneous excise taxes collected by sale of revenue stamps.

(b) *Documentary stamp taxes*—(1) *Capital stock, certificates of indebtedness, deeds of conveyance, and foreign insurance policies.* Chapter 34 of the Internal Revenue Code imposes a tax on the issuance of corporate certificates of indebtedness, capital stock, or similar instruments, and foreign insurance policies. Chapter 34 of the Code also imposes a tax on all sales or transfers of corporate certificates of indebtedness, capital stock, or similar instruments, and on deeds of conveyance of realty sold. Under certain circumstances, a national securities exchange, or clearing house for such exchange, may pay tax on behalf of its members without the use of stamps.

(d) *Occupational stamp taxes.* * * * (2) *Coin-operated amusement or gaming devices.* Subchapter B of chapter 36 of the Code imposes an occupational tax with respect to coin-operated amusement or gaming devices, or similar devices operated without a coin.

(h) *Administrative remedies available to taxpayers after purchase of documentary, commodity, or occupational tax stamps or after assessment or payment of tax*—(1) *Redemption of stamps.* Where stamps have been rendered useless by gumming or sticking together in transit or otherwise without fault of the purchaser, they may be exchanged by a district director of internal revenue for other stamps of the same quantity and denomination. Stamps which have been spoiled, destroyed, or rendered useless, or unfit for the purpose intended, or for which the owner may have no use, or which through mistake have been improperly or unnecessarily used, or have been used in excess of the amount of tax actually due, may be redeemed upon proper claim filed with the district director. All such claims must be prepared on Form 843 and must be filed with the district director for the district in which is located the principal office of the claimant, or if he has no such office, with the district director for the district in which he resides. A claim for redemption of unused stamps must be filed within three years after the date of purchase of the stamps from the Government, while a claim for used stamps must be filed within three years after the stamps were affixed and cancelled. The stamps either must be submitted with the claim, or if it is impracticable to remove them from the instruments, documents, etc., to which they are attached, the words "Claim for refund of \$— filed," with the appropriate amount inserted, shall be written across the face of the stamps by the claimant or the person having custody of the instruments or documents to which the stamps are affixed. The claimant must make a statement in his claim that the stamps have been so marked and by whom. In

the case of a claim for unused stamps where the actual date of purchase of the stamps from the Government cannot be given, it must be definitely shown in the claim whether they were so purchased within 3 years prior to the date of filing of the claim. Once filed, a claim for redemption follows generally the same channels as do all other claims for refund. See §§ 601.103 to 601.106.

PAR. 27. Section 601.601 is amended by redesignating paragraph (b) as paragraph (c), redesignating paragraph (c) as paragraph (d), and adding a new paragraph (b). These amended provisions read as follows:

§ 601.601 Rules and regulations.

(b) *Comments on proposed rules.* Interested persons are privileged to submit any data, views, or arguments with respect to proposed rules. Such comments are confidential and are not disclosed to the public. Information as to who filed comments is also confidential. However, the name of any person requesting a public hearing and the issues which may be discussed at the hearing are not confidential.

(c) *Petition to change rules.* Interested persons are privileged to petition for the issuance, amendment, or repeal of a rule. A petition for the issuance of a rule should identify the section or sections of law involved; and a petition for the amendment or repeal of a rule should set forth the section or sections of the regulations involved. The petition should also set forth the reasons for the requested action. Such petitions will be given careful consideration and the petitioner will be advised of the action taken thereon. Petitions should be addressed to the Commissioner of Internal Revenue, Washington 25, D.C., Attention: T:P.

(d) *Publication of rules and regulations.* All internal revenue regulations and Treasury decisions (whether interpretative or substantive) are published in the FEDERAL REGISTER and in the Code of Federal Regulations. The Treasury decisions are also published in the weekly Internal Revenue Bulletin and the semi-annual Cumulative Bulletin. The Internal Revenue Bulletin is the authoritative instrument of the Commissioner for the announcement of official rulings, and for the publication of Treasury decisions, Executive orders, legislation, and court decisions pertaining to internal revenue matters. It is the policy of the Service to publish in the bulletin all substantive and procedural rulings of importance or general interest, the publication of which is considered necessary to promote a uniform application of the laws administered by the Service. It is also the policy to publish all rulings which revoke, modify, amend or affect any published ruling. Rulings relating solely to matters of internal management are not published. The rulings are prepared in the various offices of the Service.

PAR. 28. Paragraph (a) (5) and paragraph (b) (1), (2), (3), and (5) of § 601.702 are amended to read as follows:

§ 601.702 Publication and public inspection.

(a) *General.* * * *

(5) *State liquor cases or State firearms cases.* If the interests of the United States will not be jeopardized thereby, and if information will not be divulged contrary to section 7213(b) of the Code, assistant regional commissioners (alcohol and tobacco tax) may upon receipt of subpoenas or requests of State authorities, and at the expense of the State, authorize investigators and other employees under their supervision to attend trials and administrative hearings in liquor cases or firearms cases in which the State is a party, produce records and testify as to facts coming to their knowledge in their official capacities.

(b) *Final opinions and orders*—(1) *Accepted offers in compromise*—(i) *Income, profits, estate or gift tax.* In the case of offers in compromise in respect of income, profits, capital stock (repealed), estate or gift tax liability accepted on or after August 20, 1952, a copy of the summary sheet (abstract) of each such offer is available for public inspection in the office of the appropriate district director if the liability involved is less than \$5,000, and in the office of the Public Information Division of the National Office if the liability involved totals \$5,000 or more. Such summary sheet includes a brief description of the reasons for acceptance of the offer. If information in addition to that shown on the summary sheet is requested, such information, subject to the provisions set forth in Internal Revenue Cumulative Bulletin 1952-2, pages 299-300, will also be made available for inspection. In the case of offers in compromise of such tax liabilities accepted before August 20, 1952, a copy of the summary sheet will be made available for inspection upon request identifying the taxpayer. See Treasury Decision 5927, approved August 20, 1952 (26 CFR (1939), 1954 Supp. 458-313), and Executive Order 10386, dated August 20, 1952 (3 CFR, 1952 Supp.).

(ii) *Refilling of liquor bottles.* For each offer in compromise submitted and accepted on or after December 21, 1956, pursuant to section 7122 of the Code, in any case arising under sections 5604 and 5606 of the Code, relating to refilling of liquor bottles, a copy of the abstract and statement relating to the offer shall be available for public inspection for a period of one year in the office of the assistant regional commissioner (alcohol and tobacco tax) accepting the offer and in the office of the district director for the internal revenue district in which the offer is submitted. Information, however, is not disclosed concerning any trade secrets, processes, operations, style of work, or apparatus, or confidential data, amount or source of income, profits, losses, or expenditures, or any other matter within the prohibition of section 1905 of Title 18 of the United States Code.

(2) *Information regarding permits*—

(i) *Application for permits.* Information with respect to the handling of applications for basic permits under the

Federal Alcohol Administration Act, operating permits under section 5171 of the Code, and industrial use permits under section 5271 of the Code is maintained for public inspection in the offices of assistant regional commissioners (alcohol and tobacco tax) until the expiration of one year following final action on such applications.

(ii) *Card index record of permits.* A current card index record for all persons to whom industrial use permits have been issued; for all proprietors of distilled spirits plants to whom operating permits have been issued to cover distilling for industrial use, bonded warehousing of spirits for industrial use, or denaturing of spirits; and for all applicants for such industrial use and operating permits; is available in the offices of assistant regional commissioners (alcohol and tobacco tax). Such card index records may be inspected by persons who are authorized to sell or purchase tax-free alcohol or specially denatured spirits.

(3) *List of plants and permittees.* Upon request, the assistant regional commissioner (alcohol and tobacco tax) may, as far as possible without interference with the work of his office, furnish a list of any type of qualified proprietor or permittee located in his region.

(5) *Publication of decisions.* Rulings and decisions on matters arising under the internal revenue laws which because they announce a ruling or decision upon a novel question or upon a question in regard to which there exists no previously published ruling or decision, or for other reasons, are of such importance as to be of general interest, or which revoke, amend or affect in any manner a published ruling or decision are, after rephrasing to eliminate any confidential information relating to a particular case, including identity of persons, regularly published in the Internal Revenue Bulletin. See also § 601.601(d). No unpublished ruling or decision will be cited or relied upon by any officer or employee of the Internal Revenue Service as a precedent in the disposition of other cases.

(R.S. 161; 5 U.S.C. 22)

[SEAL]

CHARLES I. FOX,
Acting Commission of
Internal Revenue.

[F.R. Doc. 60-11999; Filed, Dec. 27, 1960;
8:46 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Oil Import Administration, Department of the Interior

[Oil Import Reg. 1 (Revision 2), Amdt. 3]

MISCELLANEOUS AMENDMENTS

1. Section 10 of Oil Import Regulation 1 (Revision 2) (25 F.R. 4958) is amended to read as follows:

Sec. 10 Allocations of crude oil and unfinished oils—Districts I-IV.

(a) The quantity of imports of crude oil and unfinished oils determined to be

available for allocation in Districts I-IV for the allocation period January 1, 1961, through June 30, 1961, shall be allocated by the Administrator among eligible applicants as provided in paragraphs (b) and (c) of this section.

(b) Except as provided in paragraph (c) of this section, each eligible applicant shall receive an allocation based on refinery inputs for the year ending September 30, 1960, and computed according to the following schedule:

Average B/D input:	Percent of input
0-10,000	11.5
10-20,000	10.5
20-30,000	9.6
30-60,000	8.6
60-100,000	7.7
100-150,000	6.7
150-200,000	5.7
200-300,000	4.7
300,000 plus	3.8

(c) If an eligible applicant has been importing crude oil pursuant to an allocation under the Voluntary Oil Import Program and if an allocation computed under paragraph (b) of this section would be less than 72 percent of the applicant's last allocation of imports of crude oil under the Voluntary Oil Import Program, the applicant shall nevertheless receive an allocation under this section equal to 72 percent of his last allocation of imports of crude oil under the Voluntary Oil Import Program.

(d) No allocation made pursuant to this section shall entitle a person to a license which will allow the importation of unfinished oils in excess of 10 percent of the allocation.

(e) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

2. Amendment 2 (12 F.R. 12999) to Oil Import Regulation 1 (Revision 2) is revoked and section 11 of that regulation (25 F.R. 4958) is amended to read as follows:

Sec. 11 Allocations of crude oil and unfinished oils—District V.

(a) The quantity of imports of crude oil determined to be available for allocation in District V for the allocation period January 1, 1961, through June 30, 1961, shall be allocated by the Administrator among eligible applicants as provided in paragraphs (b) and (c) of this section.

(b) Except as provided in paragraph (c) of this section, each eligible applicant shall receive an allocation based on refinery inputs for the year ending September 30, 1960 and computed according to the following schedule:

Average B/D input:	Percent of input
0-10,000	40.0
10-20,000	31.3
20-30,000	22.7
30-60,000	13.5
60-100,000	10.9
100-150,000	10.0
150-200,000	8.9
200,000 plus	7.2

(c) If an eligible applicant has been importing crude oil pursuant to an allocation under the Voluntary Oil Import Program and if an allocation computed under paragraph (b) of this section would be less than 66.5 percent of the

applicant's last allocation of imports of crude oil under the Voluntary Oil Import Program; the applicant shall nevertheless receive an allocation under this section equal to 66.5 percent of his last allocation of imports of crude oil under the Voluntary Oil Import Program.

(d) Allocations made pursuant to this section shall not permit the importation of unfinished oils in excess of 10 percent of the permissible imports of crude oil. With respect to any allocation made pursuant to this section, the Administrator upon request shall issue a license permitting the importation of unfinished oils in an amount not in excess of 10 percent of the allocation. If the total quantity of unfinished oils applied for is less than 10 percent of the permissible imports of crude oils, the Administrator may to that extent increase the percentage amount of unfinished oils specified in licenses of persons who request such increases. Each person making such a request shall receive an increase in the proportion that his allocation bears to the total of allocations made to all persons requesting increases. Each barrel of unfinished oil imported shall be deemed to be the equivalent of one barrel of crude oil and will be so charged against the person's license by the respective Collectors of Customs. The permissible percentage of imports of unfinished oils and the equivalence of unfinished oils to crude oil may be changed during the allocation period, if necessary to prevent impairing accomplishment of the purposes of the program. Such a change will be made only after notice of proposed rule making and will not become effective until the 30th calendar day following publication in the FEDERAL REGISTER of the amendment making such change.

(e) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

3. Section 14 of Oil Import Regulation 1 (Revision 2) (25 F.R. 4959) is amended to read as follows:

Sec. 14 Determination of maximum level of imports—Puerto Rico.

(a) Pursuant to section 2 of Proclamation 3279, it is determined (1) that the average barrels per day of imports of crude oil and unfinished oils into Puerto Rico during any particular allocation period shall not exceed the average barrels per day, as determined by the Administrator, during the month of July of the calendar year 1958 of imports of such commodities into Puerto Rico, and (2) that the average barrels per day, as determined by the Administrator, of imports of residual fuel oil to be used as fuel and of imports of finished products other than residual fuel oil to be used as fuel into Puerto Rico during any particular allocation period shall not exceed the average barrels per day of imports of such products, respectively, into Puerto Rico during the last half of the calendar year 1958.

(b) The Administrator shall from time to time review the determinations set forth in paragraph (a) of this section and shall recommend to the Secretary of the Interior that the level of imports be increased or decreased as may be required to meet increases or decreases

in local demand in Puerto Rico or in demand for export to foreign areas.

4. Section 15 of Oil Import Regulation 1 (Revision 2) (25 F.R. 4959) is amended to read as follows:

Sec. 15 Allocation of crude oil and unfinished oils—Puerto Rico.

(a) For the allocation period January 1, 1961 through June 30, 1961, the Administrator shall allocate to each eligible applicant for an allocation for Puerto Rico quantities of imports of crude oil and unfinished oils in proportion to the applicant's average barrels daily of refinery input (adjusted by the Administrator for downtime) in Puerto Rico during the months of July, August, and September of the year 1958.

(b) In the event that the maximum levels of imports of crude oil and unfinished oils are increased or decreased pursuant to paragraph (b) of section 14, the Administrator shall increase or decrease individual allocations in the proportion that each allocation bears to the total allocations of crude oil and unfinished oils.

(c) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

5. Section 16 of Oil Import Regulation 1 (Revision 2) (25 F.R. 4959) is amended to read as follows:

Sec. 16 Allocations of finished products—Puerto Rico.

(a) For the allocation period January 1, 1961 through June 30, 1961, the Administrator shall allocate to each eligible applicant for an allocation for Puerto Rico a quantity of imports of finished products equal to the applicant's average barrels daily of imports of such products during the last 6 months of the calendar year 1958. Separate allocations shall be made for imports of residual fuel oil to be used as fuel and of imports of finished products other than residual fuel oil to be used as fuel.

(b) In the event that the maximum level of imports of residual fuel oil to be used as fuel or of finished products other than residual fuel oil to be used as fuel is increased or decreased pursuant to paragraph (b) of section 14, the Administrator shall increase or decrease individual allocations in the proportion that each allocation bears to the total allocations of residual fuel oil to be used as fuel or of finished products other than residual fuel oil to be used as fuel, respectively.

(c) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

Because allocations must be made and licenses issued for the allocation period beginning January 1, 1961, it is impracticable to give notice of proposed rule making on, or to delay the effective date of, this amendment. Accordingly, this amendment shall become effective immediately.

ELMER F. BENNETT,

Acting Secretary of the Interior.

DECEMBER 24, 1960.

[F.R. Doc. 60-12099; Filed, Dec. 27, 1960; 9:09 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Santa Monica Bay, Calif.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C.), § 207.619 is hereby prescribed establishing and governing the use and navigation of a restricted area in Santa Monica Bay, California, as follows:

§ 207.619 Santa Monica Bay, Calif.; restricted area.

(a) *The area.* The waters of the Pacific Ocean, Santa Monica Bay, in an area extending seaward from the shoreline a distance of about 5 nautical miles (normal to the shoreline) and basically outlined as follows:

Station	Latitude N.	Longitude W.
A.....	33°54'59"	118°25'41"
B.....	33°54'59"	118°28'00"
C.....	33°53'59.5"	118°31'37"
D.....	33°56'19.5"	118°34'05"
E.....	33°56'25"	118°26'29"

(b) *The regulations.* (1) Vessels shall not anchor within the area at any time without permission.

(2) Dredging, dragging, seining, or other fishing operations which might foul underwater installations within the area are prohibited.

(3) All vessels entering the area, other than vessels operated by or for the United States, the State of California, the county of Los Angeles, or the city of Los Angeles, shall proceed across the area by the most direct route and without unnecessary delay. The area will be open and unrestricted to small recreational craft for recreational activities at all times.

(4) The placing of buoys, markers, or other devices requiring anchors will not be permitted.

(5) The city of Los Angeles will maintain a patrol of the area as needed.

(6) The regulations of this section shall be enforced by the Commander, Eleventh Coast Guard District, Times Building, Long Beach, California, and such agencies as he may designate.

Effective date. This section shall become effective upon its publication in the FEDERAL REGISTER.

[Regs., Dec. 7, 1960, 285/91 (Santa Monica Bay, Calif.)—ENGOW-O] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

R. V. LEE,

Major General, U.S. Army,

The Adjutant General.

[F.R. Doc. 60-11974; Filed, Dec. 27, 1960; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2236]

[64769]

UTAH

Restoration Under Section 24, Federal Power Act

By virtue of the authority contained in section 24 of the act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and pursuant to determination DA-82—Utah of the Federal Power Commission, it is ordered as follows:

1. The following-described lands are hereby opened to filing of applications, selections and locations, subject to valid existing rights, the requirements of applicable law, the provisions of section 24 of the Federal Power Act, and also subject to the stipulation that if and when the land is required in whole or in part for purposes of power development, any structures or improvements placed thereon which are found to interfere with such development shall be removed or relocated so as to eliminate interference, without cost or expense to the United States, its permittees or licensees:

SALT LAKE MERIDIAN

T. 42 S., R. 19 E.,

Sec. 7, lots 10, 12, 13, 14, 15, and SW ¼ NE ¼.

Aggregating 103.77 acres.

2. Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

a. Until 10:00 a.m. on June 22, 1961, the State of Utah shall have a preferred right of application to select the lands in accordance with and subject to the provisions of subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852), and the regulations in 43 CFR. During this period the State may also apply for the reservation to it or to any of its political subdivisions, of any of the lands required for rights-of-way or materials sites in accordance with the provisions of section 24 of the Federal Power Act.

b. Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

c. All valid applications and selections under the nonmineral public land laws presented prior to 10:00 a.m. on January 26, 1961, will be considered as simul-

taneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

d. The lands have been open to applications and offers under the mineral leasing laws and to locations under the mining laws.

3. Persons claiming preference rights must submit evidence of their entitlement.

Inquiries shall be addressed to the Manager, Land Office, Bureau of Land Management, Salt Lake City, Utah.

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.

DECEMBER 21, 1960.

[F.R. Doc. 60-11987; Filed, Dec. 27, 1960;
8:45 a.m.]

[Public Land Order 2237]

[84913]

WYOMING

Partially Revoking Stock Driveway Withdrawals Nos. 21, 128, 144, 228, and 245

By virtue of the authority vested in the Secretary of the Interior by Section 10 of the Act of December 29, 1916 (39 Stat. 865; 43 U.S.C. 300), as amended; it is ordered as follows:

1. Stock Driveway Withdrawal No. 21 (Wyoming No. 5) of May 24, 1918; No. 128 (Wyoming No. 13) of March 18, 1920, as enlarged by departmental order of December 21, 1925, and as modified by the departmental order of June 14, 1926; No. 144 (Wyoming No. 18) of April 20, 1931; No. 228 (Wyoming No. 40) of March 28, 1932; and No. 245 (Wyoming No. 42) of May 2, 1934, are hereby revoked so far as they affect the following-described lands:

STOCK DRIVEWAY WITHDRAWAL NO. 21, WYOMING
NO. 5

(Departmental Order of May 24, 1918)

SIXTH PRINCIPAL MERIDIAN

- T. 27 N., R. 91 W.,
Sec. 30, lots 1, 2, 3, 4, E $\frac{1}{2}$ W $\frac{1}{2}$, and SE $\frac{1}{4}$;
Sec. 31.
T. 32 N., R. 91 W.,
Sec. 5, lots 1, 2, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;
Sec. 8;
Sec. 17, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$,
W $\frac{1}{2}$ SE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 20, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and
S $\frac{1}{2}$;
Secs. 29 and 30.
T. 33 N., R. 91 W.,
Sec. 10, SW $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 15, E $\frac{1}{2}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$
SW $\frac{1}{4}$;
Secs. 19 and 20;
Sec. 21, W $\frac{1}{2}$;
Sec. 22, N $\frac{1}{2}$ and SE $\frac{1}{4}$;
Sec. 23, NW $\frac{1}{4}$ and S $\frac{1}{2}$;
Sec. 33.
T. 27 N., R. 92 W.,
Sec. 7, lots 1, 2, 3, 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$,
E $\frac{1}{2}$ W $\frac{1}{2}$, and SE $\frac{1}{4}$;
Secs. 18 and 19;
Sec. 20, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and
S $\frac{1}{2}$;
Secs. 21 and 22;
Sec. 23, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;
Sec. 24, S $\frac{1}{2}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$;
Sec. 25.

- T. 32 N., R. 92 W.,
Sec. 25;
Sec. 26, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$
SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Secs. 27, 28, 29, and 30.
T. 33 N., R. 92 W.,
Sec. 19, lots 1, 2, 3, 4, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and
SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Secs. 20, 21, 22, 23, and 24.
T. 27 N., R. 93 W.,
Secs. 2, 11, and 12.
T. 28 N., R. 93 W.,
Sec. 1;
Sec. 2, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, SW $\frac{1}{4}$, NE $\frac{1}{4}$
SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 3, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, and SW $\frac{1}{4}$;
Secs. 12 and 13;
Sec. 24, N $\frac{1}{2}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 25;
Sec. 26, N $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and
SE $\frac{1}{4}$;
Sec. 35.
T. 29 N., R. 93 W.,
Secs. 7, 17, 18, 20, 21, 27, 28, and 34;
Sec. 35, W $\frac{1}{2}$.
T. 32 N., R. 93 W.,
Secs. 25, 26, 27, and 28;
Sec. 29, N $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 30.
T. 33 N., R. 93 W.,
Secs. 5, 7, 8, 9, and 10;
Sec. 11, E $\frac{1}{2}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$
SW $\frac{1}{4}$;
Secs. 12, 13, and 24.
T. 34 N., R. 93 W.,
Secs. 3, 4, 5, 8, and 17;
Sec. 20, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Secs. 29 and 32.
T. 35 N., R. 93 W.,
Sec. 27, SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 34.
T. 29 N., R. 94 W.,
Secs. 7, 8, 9, 10, 11, and 12.
T. 32 N., R. 94 W.,
Sec. 25;
Sec. 26, E $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
Secs. 27 and 28;
Sec. 29, NE $\frac{1}{4}$.
T. 33 N., R. 94 W.,
Sec. 7, lots 2, 3, 4, 5, 6, 7, 8, E $\frac{1}{2}$ W $\frac{1}{2}$, and
N $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 8, lots 1, 2, 3, 4, 5, 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$,
NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Secs. 9, 10, and 11;
Sec. 12, NE $\frac{1}{4}$, and S $\frac{1}{2}$.
T. 33 N., R. 95 W.,
Sec. 2, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Secs. 11 and 12.
T. 34 N., R. 95 W.,
Sec. 30;
Sec. 31, E $\frac{1}{2}$;
Secs. 32, 33, 34, and 35.
T. 34 N., R. 96 W.,
Secs. 25, 26, 27, and 28;
Sec. 29, E $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 30, lots 1 through 16, and SE $\frac{1}{4}$.
T. 34 N., R. 97 W.,
Secs. 25, 26, 27, 28, 29, and 30.
Containing 71,928.34 acres.

STOCK DRIVEWAY WITHDRAWAL NO. 128,
WYOMING NO. 13

(Departmental Order of March 18, 1920)

- T. 38 N., R. 90 W.,
Sec. 2, SE $\frac{1}{4}$;
Sec. 10, SE $\frac{1}{4}$;
Sec. 11, lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$;
Sec. 15, E $\frac{1}{2}$;
Sec. 21, lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 22, lots 1, 2, 3, 4, and S $\frac{1}{2}$ N $\frac{1}{2}$;
Sec. 28, NE $\frac{1}{4}$, and N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 29, E $\frac{1}{2}$;
Sec. 32, N $\frac{1}{2}$.
T. 39 N., R. 90 W.,
Sec. 26, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$
and SE $\frac{1}{4}$;
Sec. 35, E $\frac{1}{2}$.
Containing 3,284.83 acres.

(Departmental Order of June 14, 1926)

- T. 39 N., R. 91 W.,
Sec. 2, E $\frac{1}{2}$;
Sec. 11, NW $\frac{1}{4}$ NE $\frac{1}{4}$, and W $\frac{1}{2}$;
Sec. 14, W $\frac{1}{2}$;
Sec. 23, W $\frac{1}{2}$;
Sec. 26, W $\frac{1}{2}$;
Sec. 27, E $\frac{1}{2}$;
Sec. 35, W $\frac{1}{2}$.
Containing 2,191.90 acres.

(Departmental Order of December 21, 1925)

- T. 40 N., R. 91 W.,
Sec. 21, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, and NE $\frac{1}{4}$
SE $\frac{1}{4}$;
Sec. 22, lots 8, 9, 10, 11, E $\frac{1}{2}$ SW $\frac{1}{4}$, and
NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 26, lot 3 and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 27, NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 35, W $\frac{1}{2}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$.
Containing 1,295.97 acres.

STOCK DRIVEWAY WITHDRAWAL NO. 144,
WYOMING NO. 18

(Departmental Order of April 20, 1931)

- T. 29 N., R. 86 W.,
Sec. 2, N $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$;
Sec. 3, SW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 4, lots 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
Sec. 9, W $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 10, E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 11, N $\frac{1}{2}$ NE $\frac{1}{4}$.
T. 30 N., R. 86 W.,
Sec. 4, E $\frac{1}{2}$;
Sec. 9, E $\frac{1}{2}$;
Sec. 10, S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$;
Sec. 15, W $\frac{1}{2}$;
Sec. 20, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$;
Sec. 21, N $\frac{1}{2}$ and SW $\frac{1}{4}$;
Sec. 22, NW $\frac{1}{4}$;
Sec. 29, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$,
and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 32, E $\frac{1}{2}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 33, SW $\frac{1}{4}$.
T. 31 N., R. 86 W.,
Sec. 4, lots 7, 8, 9, 10, 15, 16, 17, and 18;
Sec. 8, lots 1, 2, 3, 4, and NE $\frac{1}{4}$;
Sec. 9, NW $\frac{1}{4}$;
Sec. 17, E $\frac{1}{2}$;
Sec. 20, NE $\frac{1}{4}$;
Sec. 21;
Sec. 28, E $\frac{1}{2}$;
Sec. 33, E $\frac{1}{2}$.
T. 32 N., R. 86 W.,
Sec. 6, lots 3, 4, 5, 6, 7, 12, 13, 14, 15, SE $\frac{1}{4}$
NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 7, lots 4, 5, 6, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 17, lots 3, 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$
SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 18, lot 5, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$
NW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 20, E $\frac{1}{2}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 21, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$;
Sec. 26, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$
SW $\frac{1}{4}$;
Sec. 28, W $\frac{1}{2}$;
Sec. 33, W $\frac{1}{2}$.
T. 32 N., R. 87 W.,
Sec. 1, lots 1, 2, and SE $\frac{1}{4}$ NE $\frac{1}{4}$.
Containing 9,570.95 acres, of which the
NE $\frac{1}{4}$ SW $\frac{1}{4}$ of sec. 26, T. 32 N., R. 86 W., has
been patented.

STOCK DRIVEWAY WITHDRAWAL NO. 228,
WYOMING NO. 40

(Departmental Order of March 28, 1932)

- T. 28 N., R. 91 W.,
Sec. 5, lot 3.
T. 29 N., R. 91 W.,
Sec. 14, SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 22, NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$
SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 23, W $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 27, NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 28, E $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$;
Sec. 32, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 33, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$
SE $\frac{1}{4}$;
Sec. 34, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
Containing 1,719.93 acres.

STOCK DRIVEWAY WITHDRAWAL NO. 245
WYOMING NO. 42

(Departmental Order of May 2, 1934)

T. 40 N., R. 92 W.,
Sec. 18, lot 4, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 19, lots 1, 2, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,
N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 28, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and S $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 29, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 30, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$
SW $\frac{1}{4}$.
Containing 826.04 acres.

The areas total in the aggregate
90,817.96 acres.

2. The lands are within southeastern
Fremont and southwestern Natrona
Counties, in the central part of the Wind
River Basin. The topography varies
from gently rolling to rough and moun-
tainous and elevation changes about
6,000 feet. The area is characterized by
a semi-desert vegetal cover, dominated
by big sagebrush.

3. Subject to any existing valid rights
and the requirements of applicable law,
the lands described in paragraph 1
thereof, are hereby opened to filing of
applications, selections, and locations in
accordance with the following:

a. Applications and selections under
the nonmineral public land laws may be
presented to the Manager mentioned
below beginning on the date of this order.
Such applications and selections will be
considered as filed on the hour and res-
pective dates shown for the various
classes enumerated in the following
paragraphs:

(1) Applications by persons having
prior existing valid settlement rights,
preference rights conferred by existing
laws, or equitable claims subject to al-
lowance and confirmation will be adjudi-
cated on the facts presented in support
of each claim or right. All applications
presented by persons other than those
referred to in this paragraph will be
subject to the applications and claims
mentioned in this paragraph.

(2) Until 10:00 a.m. on June 22, 1961,
the State of Wyoming shall have a pre-
ferred right of application to select the
lands in accordance with and subject to
the provisions of subsection (c) of
Section 2 of the Act of August 27, 1958
(72 Stat. 928; 43 U.S.C. 851, 852), and the
regulations of 43 CFR.

(3) All valid applications and selec-
tions under the non-mineral public land
laws, other than those from the State,
presented prior to 10:00 a.m. on January
26, 1961, will be considered as simul-
taneously filed at that hour. Rights un-
der such applications and selections filed
after that hour will be governed by the
time of filing.

b. The lands have been open to appli-
cations and offers under the mineral
leasing laws, and to location under the
United States mining laws pursuant to
the regulations in 43 CFR 185.35-185.36.

4. Persons claiming preference rights
based upon valid settlement, statutory
preference, or equitable claims must en-
close properly corroborated statements
in support of their applications, setting
forth all facts relevant to their claims.
Detailed rules and regulations governing
applications which may be filed pursuant

to this notice can be found in Title 43
of the Code of Federal Regulations.

Inquiries concerning the lands shall
be addressed to the Manager, Land
Office, Bureau of Land Management,
Cheyenne, Wyoming.

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.

DECEMBER 21, 1960.

[F.R. Doc. 60-11988; Filed, Dec. 27, 1960;
8:45 a.m.]

[Public Land Order 2238]

[Washington 02466]

WASHINGTON

Order Opening Public Lands Formerly in Power Withdrawals

1. In DA-127-Washington, the Fed-
eral Power Commission vacated the
withdrawal created by the filing on Oc-
tober 21, 1930, of an application for li-
cense for Project No. 1125, for the fol-
lowing-described lands:

WILLAMETTE MERIDIAN

All portions of the following tracts lying
within the project boundaries of the diver-
sion dam and power house sites, and within
15 feet of the center line of the pipe line
location, and within 15 feet of the center
line of the transmission line location, all as
shown on a map designated "Exhibit F" and
entitled "Quinault Hotel Co. Inc. Power
Project" and filed in the office of the Federal
Power Commission on October 21, 1930:

T. 23 N., R. 9 W.,
Sec. 20, lots 1, 2, 3, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 21, lots 1, 2, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ NE $\frac{1}{4}$.

Containing approximately 4 acres.

2. An order of the Geological Survey
of November 23, 1956 (Power Site Can-
cellation No. 116), canceled the depart-
mental order of September 20, 1926, cre-
ating Power Site Classification No. 152,
Washington No. 24, so far as it affects
the following-described lands:

WILLAMETTE MERIDIAN

T. 23 N., R. 9 W.,
Sec. 1, lot 4;
Sec. 2, lots 1, 5, 7, 8, 9, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 3, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 4, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 5, S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 7, lots 3, 4, 5, 6, and NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$
NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 8, lot 6, N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$,
NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, and N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 9, lots 1, 5, and 6;
Sec. 10, lot 1, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$
NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$
SW $\frac{1}{4}$;
Sec. 16, lots 2, 5, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 19, lot 1;
Sec. 20, lots 1, 2, 3, 4, 5, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and
SE $\frac{1}{4}$;
Sec. 21, lots 1, 2, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and
NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 29, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 30, lots 1, 2, 3, 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 31, lot 1.

T. 23 N., R. 10 W.,
Sec. 13, lot 5, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$
NW $\frac{1}{4}$, and SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 14, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 23, lots 1, 2, 3, and 4.

The areas described aggregate 3,120.19
acres, of which the NE $\frac{1}{4}$ SW $\frac{1}{4}$, section
3; S $\frac{1}{2}$ SW $\frac{1}{4}$, section 4; a strip 33 feet
wide along the east side of the W $\frac{1}{2}$ SE $\frac{1}{4}$

NE $\frac{1}{4}$ SW $\frac{1}{4}$, section 10, and lot 5, section
16, are patented.

3. The lands are withdrawn either for
the Olympic National Park, or the
Olympic National Forest.

4. Until 10:00 a.m. on March 23, 1961,
the national forest lands shall be open
only to application by the State of Wash-
ington under any statute or regulation
applicable thereto for the reservation to
it or to any of its political subdivisions of
any of the lands required as a right-of-
way for a public highway or as a source
of materials for the construction and
maintenance of such highways, as pro-
vided by Section 24 of the Federal Power
Act of 1920, as amended.

5. Commencing at 10:00 a.m. on March
23, 1961, the national forest lands shall
be open to such other forms of disposi-
tion as may by law be made of national
forest lands.

6. The national forest lands have been
open to location under applicable mining
laws, and to application and offers under
the mineral leasing laws.

Inquiries concerning the lands should
be addressed to the Manager, Land Of-
fice, Bureau of Land Management, Spo-
kane, Washington.

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.

DECEMBER 21, 1960.

[F.R. Doc. 60-11989; Filed, Dec. 27, 1960;
8:45 a.m.]

[Public Land Order 2239]

[Idaho 010989; 011339]

IDAHO

Power Site Cancellation No. 142; Power Site Restoration Nos. 559 and 562; Opening Lands From Power Withdrawals; (Power Site Classification No. 336; Power Site Reserves Nos. 223, 134 and 221)

1. In DA-522- and DA-527-Idaho, the
Federal Power Commission determined
that the value of the following-described
lands would not be injured or destroyed
for purposes of power development by
location, entry, or selection under the
public land laws, subject to the provi-
sions of section 24 of the Federal Power
Act, as amended:

BOISE MERIDIAN

In DA-522

T. 12 N., R. 18 E.,
Sec. 24, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 25, lots 3, 4, 5, 6, 7, NW $\frac{1}{4}$ NE $\frac{1}{4}$,
SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 26, lot 1;
Sec. 35, lots 2, 3, and NE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 14 N., R. 18 E.,
Sec. 2, lots 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and
N $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 3, NE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 12 N., R. 19 E.,
Sec. 5, lot 4;
Sec. 6, lots 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13,
15, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 7, lots 2, 3, 5, 6, 8, 11, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$
NE $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 8, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 17, W $\frac{1}{2}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 18, lots 2, 4, 5, 9, 11, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and
NE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 19, lots 3, 6, 7, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 30, lots 1, 3, NW $\frac{1}{4}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 13 N., R. 19 E.,
 Sec. 2, lot 4;
 Sec. 21, lots 1, 2, and 3;
 Sec. 28, lots 5, 6, 7, and 9;
 Sec. 29, lots 4, 5, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 31, E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 32, lots 2, 3, 4, 5, 8, 9, 10, 11, W $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 14 N., R. 19 E.,
 Sec. 2, lots 2, 8, 11, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 10, E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 11, lots 1 and 4;
 Sec. 13, lot 4;
 Sec. 14, E $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 15, E $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 23, lots 1, 4, and 5;
 Sec. 24, lots 1, 2, and NW $\frac{1}{4}$ SW $\frac{1}{4}$.

In DA-527

T. 17 N., R. 24 E.,
 Sec. 5, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 8, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 9, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 15, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 22, N $\frac{1}{2}$ N $\frac{1}{2}$;
 Sec. 23, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 25, NW $\frac{1}{4}$ NW $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 18 N., R. 24 E.,
 Sec. 4, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 9, E $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 16, E $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 21, E $\frac{1}{2}$ W $\frac{1}{2}$.
 T. 19 N., R. 24 E.,
 Sec. 4, lots 5, and 7;
 Sec. 9, lot 1;
 Sec. 15, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 20 N., R. 24 E.,
 Sec. 32, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate approximately 5,901 acres.

2. By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, and by virtue of the authority contained in section 1 of the act of March 3, 1879, and as Secretary of the Interior, and pursuant to the determination of the Federal Power Commission in DA-522-Idaho and DA-527-Idaho, it is ordered as follows:

a. The Executive order of November 12, 1911, establishing Power Site Reserve No. 223, and the departmental order of January 12, 1943, establishing Power Site Classification No. 336, are hereby revoked so far as they affect the following-described lands (DA-522):

BOISE MERIDIAN

T. 12 N., R. 18 E.,
 Sec. 25, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 35, W $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 12 N., R. 19 E.,
 Sec. 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 6, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 7, lot 9;
 Sec. 18, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 19, NE $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 30, lot 4 and NE $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 13 N., R. 19 E.,
 Sec. 11, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 31, W $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 14 N., R. 19 E.,
 Sec. 11, E $\frac{1}{2}$ SE $\frac{1}{4}$.

b. The Executive order of February 28, 1912, establishing Power Site Reserve No. 221, and the departmental order of

March 30, 1910, establishing Power Site Reserve No. 134, are hereby revoked so far as they affect the following-described lands (DA-527):

BOISE MERIDIAN

T. 17 N., R. 24 E.,
 Sec. 8, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 25, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 18 N., R. 24 E.,
 Sec. 4, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 19 N., R. 24 E.,
 Sec. 4, lots 3, 4, 6, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 9, lots 2, 3, and 4;
 Sec. 15, W $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 21, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 33, E $\frac{1}{2}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 20 N., R. 24 E.,
 Sec. 29, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 32, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 33, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 17 N., R. 25 E.,
 Sec. 32, SE $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described aggregate approximately 2,024 acres.

3. The following lands will remain in existing withdrawals for reclamation and power purposes:

T. 12 N., R. 18 E.,
 Sec. 25, lots 3 to 7, incl. and SE $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 14 N., R. 18 E.,
 Sec. 2, lots 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$.
 T. 14 N., R. 19 E.,
 Sec. 2, lot 2;
 Sec. 10, E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 15, E $\frac{1}{2}$ NW $\frac{1}{4}$.

4. The S $\frac{1}{2}$ NW $\frac{1}{4}$, section 15, T. 19 N., R. 24 E., is withdrawn for the Salmon National Forest.

5. The lands are situated in part within the main valley of the Lemhi River drainage, and in part near the main Salmon River. Vegetation consists of sage brush and native grasses. Topography ranges from gently to severe undulating and steep rocky hillsides.

6. Subject to valid existing rights, the provisions of existing withdrawals, and requirements of applicable law, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following, the lands described in paragraph 1 hereof, being opened subject to the provisions of section 24 of the Federal Power Act as amended:

a. Applications and selections under the nonmineral public land laws, may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) Until 10:00 a.m. on June 22, 1961, the State of Idaho shall have a preferred right of application to select the lands in accordance with and subject to the provisions of subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851-852), and the regulations in 43 CFR. During this period the State may also apply for the reservation to it or to any of its political subdivisions under any law or regulation applicable thereto, of any of the lands, required for rights-of-way or materials sites, in accordance with the provisions of section 24 of the Federal Power Act, supra.

(3) All valid applications and selections under the nonmineral public land laws presented prior to 10:00 a.m. on June 22, 1961, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands have been open to applications and offers under the mineral leasing laws, and to location under the United States mining laws pursuant to the act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

7. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.

DECEMBER 21, 1960.

[F.R. Doc. 60-11990; Filed, Dec. 27, 1960; 8:45 a.m.]

[Public Land Order 2240]

[Idaho 011466]

IDAHO

Partly Revoking Reclamation Withdrawal (Minidoka Project)

By virtue of the authority contained in section 3 of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), it is ordered as follows:

1. The departmental order of March 18, 1908, withdrawing the following-described lands for reclamation purposes in connection with the Minidoka Project is hereby revoked:

BOISE MERIDIAN

T. 7 S., R. 25 E.,
 Sec. 35, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$.

Containing 10 acres.

2. Subject to any existing valid rights and the requirements of applicable law, the lands are hereby opened to filing applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the vari-

ous classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the nonmineral public land laws presented prior to 10:00 a.m. on January 26, 1961, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

3. The lands have been open to applications and offers under the mineral leasing laws. They will be open to location under the mining laws beginning at 10:00 a.m. on January 26, 1961. (The State of Idaho has waived its preference rights of application under subsection (c) of section 2 of the Act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 416)).

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.

DECEMBER 21, 1960.

[F.R. Doc. 60-11991; Filed, Dec. 27, 1960;
8:45 a.m.]

[Public Land Order 2241]

[1905869]

CALIFORNIA

Opening Lands Withdrawn in Power Project No. 1870

1. The Federal Power Commission, under provisions of section 24 of the Federal Power Act has vacated the withdrawal of the following-described lands, created by the filing on December 18, 1941, by Southern California Edison Company, Ltd., of an application for preliminary permit for proposed Project No. 1870:

MOUNT DIABLO MERIDIAN

T. 9 S., R. 23 E.,
Sec. 9, S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 11, S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 12, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 13, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 15, S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 16, E $\frac{1}{2}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
Sec. 17, S $\frac{1}{2}$;
Sec. 18, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 20, N $\frac{1}{2}$ N $\frac{1}{2}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 9 S., R. 24 E.,
Sec. 7, lot 4;
Sec. 17, lots 2 and 3;
Sec. 18, lots 5 to 10 incl.

The areas described aggregate 3,462.25 acres.

2. All the lands are in the Sierra National Forest. All the lands are included in other withdrawals for power purposes except the following:

MOUNT DIABLO MERIDIAN

T. 9 S., R. 23 E.,
Sec. 9, S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 12, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and S $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 15, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 16, N $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 20, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 21, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$.

Aggregating 510 acres.

3. The following-described lands in Power Site Classification No. 138 for transmission line purposes are subject to the general determination of the Federal Power Commission of April 17, 1922.

MOUNT DIABLO MERIDIAN

T. 9 S., R. 23 E.,
Sec. 15, S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 16, N $\frac{1}{2}$ NE $\frac{1}{4}$.

Aggregating 140 acres.

4. Until 10:00 a.m. on March 23, 1961, the State of California shall have a preferred right to apply under any statute or regulation applicable thereto, for the reservation to the State or to any of its political subdivisions of any of the lands described in paragraphs 2 and 3 of this order required as a right-of-way, or as a source of materials for the construction and maintenance of such highways, pursuant to the provisions of section 24 of the Federal Power Act of 1920, as amended.

5. At 10:00 a.m. on March 23, 1961, the lands described in paragraphs 2 and 3 of this order shall be open to such forms of disposition as may by law be made of national forest lands, any disposition of the lands described in paragraph 3, however, to be subject to the provisions of section 24 of the Federal Power Act.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Sacramento, California.

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.

DECEMBER 21, 1960.

[F.R. Doc. 60-11992; Filed, Dec. 27, 1960;
8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

Washington 25, D.C.

[FCC 60-1525]

PART 7—STATIONS ON LAND IN THE MARITIME SERVICES

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Radiotelephony for Navigational Communications

In the matter of radiotelephony for navigational communications. Extension of time to file applications and deletion of termination date of initial licenses for the frequency 156.65 Mc.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 21st day of December 1960;

The Commission having under consideration the above-captioned matter;

It appearing that the Commission has provided for an operational evaluation trial period for radiotelephone communication to be conducted on a single short-range frequency (VHF 156.65 Mc) for the exchange of marine navigational information and related emergency messages directly between navigating personnel stationed on the bridges of ships at sea and on inland waters, and between ship and shore stations concerned with the safe movement of ships through locks and bridge structures spanning inland waters; and

It further appearing that the present provisions of Parts 7 and 8 of the Commission's rules prohibit the filing of applications after December 31, 1960, for limited coast stations (developmental), marine utility (developmental), and/or limited ship stations (developmental) on the frequency 156.65 Mc, and also provide that all initial licenses for such frequency shall terminate April 1, 1961; and

It further appearing that the time limit for filing such applications should be extended indefinitely and provision made for the issuance of initial licenses for a full one-year period in order to allow the Commission additional time to consider this matter; and

It further appearing that the provisions of section 4 (a) and (b) of the Administrative Procedure Act need not be complied with (1) since the amendments herein ordered delete certain obsolete requirements and are of minor effect in that there is no change in the nature of the developmental operation authorized; (2) since it is impracticable to follow the rule making procedure in view of the cut-off date of December 31, 1960, for the filing of applications for the above-men-

tioned stations; and (3) since the present rule indicates, with respect to the extension of the time limit on the filing of applications, that the Commission may, in its discretion, take any action it deemed appropriate; and

It further appearing that, for the same reasons and because the rule amendments herein ordered relieve restrictions which would otherwise be applicable, the provisions of Section 4(c) of the Administrative Procedure Act need not be complied with;

It is ordered, That pursuant to section 303(r) of the Communications Act of 1934, as amended, Parts 7 and 8 of the Commission's rules are amended as set forth below, effective December 30, 1960.

Released: December 22, 1960.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

FEDERAL COMMUNICATIONS
COMMISSION,
BEN F. WAPLE,
Acting Secretary.

A. Part 7 is amended as follows:

1. Section 7.506(b) (2) is amended to read as follows:

§ 7.506 Report of operation required.

(b) * * *

(2) A report on the results of the developmental program shall be filed by each licensee, or by one or more such licensees acting jointly as a coordinated group, within 60 days of the expiration of each developmental station license.

2. The text of § 7.508 is deleted and the word "[Reserved]" is inserted in lieu thereof, as follows:

§ 7.508 [Reserved]

3. Section 7.509 is amended to read as follows:

§ 7.509 Time limit on filing of initial applications for operation on 156.65 Mc.

Applications for developmental limited coast station licenses to authorize, initially, operation on the radio channel of which 156.65 Mc is the authorized carrier frequency may be filed until such time, in the discretion of the Commission, a need develops for discontinuance of this category of application.

B. Part 8 is amended as follows:

1. Section 8.436(b) (3) is amended to read as follows:

§ 8.436 Report of operation required.

(b) * * *

(3) A report on the results of the developmental program shall be filed by each licensee, or by one or more such licensees acting jointly as a coordinated group, within 60 days of the expiration of each developmental station license.

2. The text of § 8.438 is deleted and the word "[Reserved]" is inserted in lieu thereof, as follows:

§ 8.438 [Reserved]

3. Section 8.439 is amended to read as follows:

§ 8.439 Time limit on filing of initial applications for operation on 156.65 Mc.

Applications for developmental ship station licenses to authorize, initially, operation on the radio channel of which 156.65 Mc is the authorized carrier frequency may be filed until such time, in the discretion of the Commission, a need develops for the discontinuance of this category of application.

[F.R. Doc. 60-12028; Filed, Dec. 27, 1960; 8:49 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 120—ANNUAL, SPECIAL OR PERIODICAL REPORTS

Railroad Annual Report Form C

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 30th day of November A.D. 1960.

The matter of annual reports of line-haul and switching and terminal railroad companies of Class II being under further consideration, and the changes to be made by this order being minor changes in the data to be furnished, rule-making procedures under section 4(a) of the Administrative Procedure Act, 5 U.S.C. 1003, being deemed unnecessary:

It is ordered, That § 120.12 of the order of December 2, 1959, in the matter of Railroad Annual Report Form C, be, and it is hereby, modified and amended, with respect to annual reports for the year ended December 31, 1960, and subsequent years, to read as shown below.

It is further ordered, That § 120.12, be, and it is hereby, modified and amended to read as follows:

§ 120.12 Form prescribed for Class II railroads.

Commencing with the year ended December 31, 1960, and for subsequent years thereafter, until further order, all line-haul and switching and terminal railroad companies of Class II, as described in § 126.1 of this chapter, all carriers with average annual operating revenues of less than \$3,000,000, subject to the provisions of section 20, part I of the Interstate Commerce Act, are required to file annual reports in accordance with Railroad Annual Report Form C, which is attached to and made a part of this section.¹ Such annual report shall be filed in duplicate in the Bureau of Transport Economics and Statistics, Interstate Commerce Commission, Washington 25, D.C., on or before March 31 of the year following the year to which it relates.

(Sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12. Interpret or apply sec. 20, 24 Stat. 386, as amended; 49 U.S.C. 20)

And it is further ordered, That copies of this order and of Annual Report Form C shall be served on all line-haul and switching and terminal railroad companies of Class II, subject to the provisions of section 20, part I, of the Interstate Commerce Act, and upon every receiver, trustee, executor, administrator or assignee of any such railroad company, and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 2.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 60-12003; Filed, Dec 27, 1960; 8:46 a.m.]

¹ Filed as part of the original document.

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

126 CFR (1954) Part 11

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the *FEDERAL REGISTER*. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the *FEDERAL REGISTER*. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL]

CHARLES I. FOX,
Acting Commissioner of
Internal Revenue.

The following regulations are hereby prescribed under sections 382 (relating to special limitations on net operating loss carryovers) and 394 (relating to effective date of part V, subchapter C, chapter 1) of the Internal Revenue Code of 1954:

§ 1.382(a) Statutory provisions; special limitations on net operating loss carryovers; purchase of a corporation and change in its trade or business.

Sec. 382. Special limitations on net operating loss carryovers—(a) Purchase of a corporation and change in its trade or business—(1) In general. If, at the end of a taxable year of a corporation—

(A) Any one or more of those persons described in paragraph (2) own a percentage of the total fair market value of the outstanding stock of such corporation which is at least 50 percentage points more than such person or persons owned at—

(i) The beginning of such taxable year, or

(ii) The beginning of the prior taxable year,

(B) The increase in percentage points at the end of such taxable year is attributable to—

(i) A purchase by such person or persons of such stock, the stock of another corporation owning stock in such corporation, or

an interest in a partnership or trust owning stock in such corporation, or

(ii) A decrease in the amount of such stock outstanding or the amount of stock outstanding of another corporation owning stock in such corporation, except a decrease resulting from a redemption to pay death taxes to which section 303 applies, and

(C) Such corporation has not continued to carry on a trade or business substantially the same as that conducted before any change in the percentage ownership of the fair market value of such stock,

the net operating loss carryovers, if any, from prior taxable years of such corporation to such taxable year and subsequent taxable years shall not be included in the net operating loss deduction for such taxable year and subsequent taxable years.

(2) *Description of person or persons.* The person or persons referred to in paragraph (1) shall be the 10 persons (or such lesser number as there are persons owning the outstanding stock at the end of such taxable year) who own the greatest percentage of the fair market value of such stock at the end of such taxable year; except that, if any other person owns the same percentage of such stock at such time as is owned by one of the 10 persons, such person shall also be included. If any of the persons are so related that such stock owned by one is attributed to the other under the rules specified in paragraph (3), such persons shall be considered as only one person solely for the purpose of selecting the 10 persons (more or less) who own the greatest percentage of the fair market value of such outstanding stock.

(3) *Attribution of ownership.* Section 318 (relating to constructive ownership of stock) shall apply in determining the ownership of stock, except that section 318(a)(2)(C) shall be applied without regard to the 50 percent limitation contained therein.

(4) *Definition of purchase.* For purposes of this subsection, the term "purchase" means the acquisition of stock, the basis of which is determined solely by reference to its cost to the holder thereof, in a transaction from a person or persons other than the person or persons the ownership of whose stock would be attributed to the holder by application of paragraph (3).

§ 1.382(a)-1 Purchase of a corporation and change in its trade or business.

(a) *In general.* (1) Section 382(a) provides for the complete elimination of the net operating loss carryovers of a corporation (hereinafter called a "loss corporation") if certain circumstances exist. In general, section 382(a) applies only if, at the end of a loss corporation's taxable year, there has been a change (occurring in specified ways) since the beginning of such year, or since the beginning of the prior taxable year, of at least 50 percent in the ownership of the corporation's outstanding stock (hereinafter called a "change of ownership"), and only if the corporation has not continued to carry on substantially the same trade or business as that conducted before such change. If section 382(a) is applicable at the end of a taxable year, then the entire net operating loss carryovers from prior taxable years of such corporation are excluded in computing the net operating loss deduction for such taxable year and for subsequent taxable years.

(2) For purposes of this section, (i) section 318(a) shall apply in determining ownership of stock, except that section 318(a)(2)(C) shall be applied without regard to the 50-percent limitation contained therein, and (ii) stock acquired by the exercise of an option shall be considered as having been acquired on the date the option was acquired. Thus, if A acquires on December 15, 1959, an option to purchase 50 percent of the outstanding stock of X Corporation and if A acquires the stock by exercising the option on January 15, 1961, A will be considered as having purchased the stock on December 15, 1959.

(3) For the definition of the term "stock" as used in this section, see § 1.382(c)-1.

(b) *Circumstances under which section 382(a) is applicable.* Section 382(a) applies if, at the end of a taxable year of a loss corporation, all of the following circumstances exist:

(1) Any one or more of those persons described in paragraph (c) of this section own, actually and constructively, a percentage of the total fair market value of the outstanding stock of such corporation which is at least 50 percentage points more than such person or persons owned at the beginning of such taxable year or at the beginning of the prior taxable year;

(2) The increase in percentage points referred to in subparagraph (1) of this paragraph is attributable to (i) a purchase or purchases (as defined in section 382(a)(4) and paragraph (e) of this section) by the person or persons specified in subparagraph (1) of this paragraph of such stock or the stock of another corporation owning stock in such loss corporation, (ii) the purchase or purchases by such person or persons of an interest in a partnership or trust owning stock in such loss corporation, (iii) a decrease in the amount of outstanding stock of such loss corporation or in the amount of outstanding stock of another corporation owning stock in such loss corporation, except a decrease resulting from a redemption to pay death taxes to which section 303 applies, or (iv) a combination of the transactions described in subdivisions (i), (ii), and (iii) of this subparagraph; and

(3) The loss corporation has not continued to carry on a trade or business substantially the same as that conducted before any increase in percentage points described in subparagraph (2) of this paragraph.

(c) *Description of person or persons.*

(1) The persons specified in paragraph (b)(1) of this section shall be the 10 persons who own, actually and constructively, the greatest percentage of the fair market value of the outstanding stock of a loss corporation at the end of a taxable year (or such lesser number as there are persons owning the outstanding stock at the end of such taxable year), except that if any two or more persons own the same percentage of such stock and it is necessary to include one

such person in order to select the 10 persons, then all of such persons shall be included. Any such persons so selected who are so related that stock owned by one is attributed to another under the constructive ownership rule specified in paragraph (a) (2) of this section shall be considered as only one person solely for the purpose of selecting such 10 persons. Although considered as one person for purposes of selecting such 10 persons, such related persons are considered as separate persons for all other purposes of section 382(a).

(2) In selecting the 10 persons (more or less) described in subparagraph (1) of this paragraph, the following procedure shall be used:

(i) First, determine those persons who own, actually and constructively, stock of the loss corporation and determine the fair market value of the stock owned, actually and constructively, by such persons.

(ii) Second, select from such persons the number of persons required by the first sentence of subparagraph (1) of this paragraph.

(iii) Third, if any of the persons so selected are so related that stock of one is attributed to another under the rule specified in paragraph (a) (2) of this section, such persons shall be considered as one person.

(iv) Fourth, if, as the result of considering two or more persons as one person, the number of persons previously selected drops below ten, additional persons shall be selected in the manner prescribed in subdivision (ii) of this subparagraph.

(v) Finally, if any such additional persons are related under the rule specified in paragraph (a) (2) of this section to persons previously selected, or to one another, then the principles of subdivisions (iii) and (iv) of this subparagraph shall again be applied.

(3) The application of this paragraph may be illustrated by the following example:

Example. (i) Assume that the outstanding stock of a loss corporation (based on fair market value) is owned, actually and constructively, at the end of a taxable year by the following individuals and partnership:

Person	Percentage of stock actually owned	Percentage of stock owned actually and constructively
A	15	15
B (A's wife)	0	15
C (A's son)	0	15
D (A's daughter)	0	15
GH (a partnership)	0	20
E	16	20
F	15	15
G (a 50-percent partner in GH)	10	15
H (a 50-percent partner in GH)	10	15
I	5	5
J	5	5
K	5	5
L (E's grandson)	4	4
M	4	4
N	3	3
O	2	2
P	2	2
Q	2	2
R	2	2

(ii) The persons selected under subparagraph (2) (i) of this paragraph are the following 12 persons: A, B, C, D, partnership GH, E, F, G, H, I, J, and K (I, J, and K must all be included because each owns the same percentage of stock). However, A, B, C, and D are considered as one person for purposes of this paragraph because they are related under the rule specified in paragraph (a) (2) of this section, and G, H, and partnership GH are considered as one person for the same reason. Therefore, it is necessary to select three additional persons, L, M, and N, in order to reach the required number of ten. However, since L is related to one of the persons previously selected, he cannot be considered a separate person. It therefore becomes necessary to select an additional person and since O, P, Q, and R each owns the same percentage of stock, they all must be selected. Accordingly, the 10 persons (more or less) who own the greatest percentage of the fair market value of the outstanding stock are individuals A through R and partnership GH.

(d) *Change of ownership.* (1) The determination of whether a change of ownership has occurred under section 382(a) is made as of the close of a taxable year of a loss corporation. A "change of ownership" has occurred only if the stock ownership of the 10 persons (more or less) selected under paragraph (c) of this section has increased at least 50 percentage points using a prescribed period and such increase is attributable to a transaction or transactions described in section 382 (a) (1) (B) and in paragraphs (e), (f), and (g) of this section. The aggregate increase of at least 50 percentage points during a prescribed one time during the taxable year or during the prior taxable year, or may take place in several transactions occurring during such 2-year period. An increase of 50 percentage points is not the same thing as an increase of 50 percent. Thus, a stockholder who owns 4 percent of the fair market value of the stock of a corporation and who increases his ownership to 6 percent has had a 50-percent increase in ownership but an increase in percentage points of only 2.

(2) (i) It is unnecessary to determine whether a "change of ownership" has occurred unless, as of the end of any taxable year (hereinafter called a "current taxable year"), the loss corporation has changed its trade or business after the date of the first increase in percentage points during such taxable year, or during the prior taxable year, which would be taken into account under subparagraph (3) of this paragraph in determining whether a "change of ownership" has occurred.

(ii) If, as of the end of the current taxable year, the loss corporation has changed its trade or business after the date of the first increase in percentage points during such current year, then in determining whether a "change of ownership" has occurred it is first necessary to compare ownership of the outstanding stock at the end of the current taxable year with such ownership at the beginning of such current taxable year. If a "change of ownership" has not occurred as a result of such comparison, then it is necessary to compare ownership of the outstanding stock at the end of the current taxable year with

such ownership at the beginning of the prior taxable year.

(iii) If, as of the end of the current taxable year, the loss corporation has not changed its trade or business after the date of the first increase in percentage points during such current year, but the corporation has changed its trade or business after the date of the first increase in percentage points during the prior taxable year, then in determining whether a "change of ownership" has occurred it is necessary to compare ownership of the outstanding stock at the end of the current taxable year with such ownership at the beginning of the prior taxable year.

(iv) For purposes of subdivisions (ii) and (iii) of this subparagraph, an increase in percentage points means only an increase in percentage ownership which would be taken into account under subparagraph (3) of this paragraph in determining whether a "change of ownership" has occurred.

(v) A loss corporation has changed its trade or business during a period between one date and another date only if, as of the later date, the corporation has not continued to carry on a trade or business substantially the same as that conducted immediately before the earlier date. See paragraph (h) of this section for rules relating to change in trade or business.

(3) In determining whether a "change of ownership" has occurred, the following procedure shall be used:

(i) First, as of the close of a taxable year, the percentage of the total fair market value of stock owned, actually and constructively, by each of the 10 persons (more or less) selected under paragraph (c) of this section shall be computed. For this purpose, each person included in selecting such 10 persons shall be treated as a separate person even though any such persons are considered as only one person under such paragraph (c) in selecting the 10 persons who own the greatest percentage of the fair market value of the outstanding stock.

(ii) Second, the percentage of the total fair market value of stock owned, actually and constructively, by each of such persons as of the beginning of the current taxable year or the prior taxable year, whichever is applicable, shall be computed.

(iii) Third, after computing the percentage of the total fair market value of stock owned by each of the persons as of the close of the current taxable year and as of the beginning of the applicable year, a comparison shall be made between the percentages owned by each such person as of each such date.

(iv) Fourth, with respect to each person who sustained an increase in percentage ownership, the portion of such increase which is attributable to a transaction or transactions described in paragraphs (e), (f), and (g) of this section shall be determined.

(v) Finally, the increases in percentage ownership attributable to such transaction or transactions shall be totaled and the resulting figure shall be

used in determining whether a "change of ownership" has occurred.

(4) This paragraph may be illustrated by the following examples:

Example (1). Assume that a loss corporation has changed its trade or business during the current taxable year ending on December 31, 1960. Assume further that the following table shows the percentage of the fair market value of the outstanding stock owned by each stockholder as of December 31, 1960, and the percentages owned by such stockholders as of January 1, 1960, and January 1, 1959. The percentage of stock actually owned is followed in parentheses by the percentage owned actually and constructively under section 318(a). It is assumed that all increases in actual ownership are attributable to a purchase or purchases of stock described in paragraph (e) of this section.

Stockholder	Dec. 31, 1960	Jan. 1, 1960	Jan. 1, 1959
	Percent	Percent	Percent
A.....	10 (23)	15 (15)	15 (15)
B (A's wife).....	10 (23)	0 (15)	0 (15)
C.....	10 (25)	10 (25)	0 (0)
D (C's wife).....	5 (25)	5 (25)	0 (10)
E (son of C and D).....	5 (20)	5 (20)	0 (0)
F (daughter of C and D).....	5 (20)	5 (20)	0 (0)
G.....	10 (10)	10 (10)	0 (0)
H.....	5 (5)	0 (0)	0 (0)
I.....	5 (5)	0 (0)	0 (0)
J.....	5 (5)	0 (0)	0 (0)
K.....	5 (5)	0 (0)	0 (0)
L.....	5 (5)	5 (5)	5 (5)
M.....	4 (4)	0 (0)	0 (0)
N.....	4 (4)	0 (0)	0 (0)
O.....	3 (3)	3 (3)	3 (3)
P.....	3 (3)	3 (3)	3 (3)
Q.....	3 (3)	3 (3)	3 (3)
R (grandson of A and B).....	3 (3)	0 (0)	0 (0)
S (D's father).....	0 (15)	0 (15)	10 (10)

(i) The 10 persons (more or less) who own the greatest percentage of the fair market value of the outstanding stock on December 31, 1960 (as selected under paragraph (c) of this section), are A through N and S. Each of such persons is treated as a separate person in computing increases in percentage ownership.

(ii) A and B each owns, actually and constructively, 23 percent of the outstanding stock on December 31, 1960, 15 percent on January 1, 1960, and 15 percent on January 1, 1959. Therefore, as of December 31, 1960, A and B each has sustained an increase of 8 percentage points since January 1, 1960, and a similar increase since January 1, 1959. A's increase is not attributable to a purchase by him. B's increase, however, is attributable to a purchase by her of 10 percent of the outstanding stock. Therefore, B's increase of 8 percentage points is taken into account in determining whether a "change of ownership" has occurred.

(iii) C owns, actually and constructively, 25 percent of the outstanding stock on December 31, 1960, 25 percent on January 1, 1960, and none on January 1, 1959. Therefore, as of December 31, 1960, C has sustained no increase since January 1, 1960, but he has sustained an increase of 25 percentage points since January 1, 1959. Of this increase 10 percentage points are attributable to a purchase by C.

(iv) D owns, actually and constructively, 25 percent of the outstanding stock on December 31, 1960, 25 percent on January 1, 1960, and 10 percent on January 1, 1959. Therefore, as of December 31, 1960, D has sustained no increase since January 1, 1960, but she has sustained an increase of 15 percentage points since January 1, 1959. Of this increase 5 percentage points are attributable to a purchase by D.

(v) E and F each owns, actually and constructively, 20 percent of the outstanding stock on December 31, 1960, 20 percent on

January 1, 1960, and none on January 1, 1959. Therefore, as of December 31, 1960, E and F each has sustained an increase of 20 percentage points since January 1, 1959, of which 5 percentage points in each case are attributable to a purchase.

(vi) G has sustained an increase of 10 percentage points since January 1, 1959, all of which are attributable to a purchase by G.

(vii) H, I, J, and K each has sustained an increase of 5 percentage points since January 1, 1960, and a similar increase since January 1, 1959, all of which are attributable to purchases.

(viii) L has sustained no increase in percentage points.

(ix) M and N each has sustained an increase of 4 percentage points since January 1, 1960, and a similar increase since January 1, 1959, all of which are attributable to purchases.

(x) S has sustained an increase of 5 percentage points since January 1, 1959, but the increase is not attributable to a purchase by S.

(xi) The aggregate increase in percentage ownership (attributable to purchases) since January 1, 1960, is 36 percentage points (8 points from B, 5 each from H, I, J, and K, and 4 each from M and N).

(xii) Since an aggregate increase (attributable to transactions described in paragraph (e)) in stock ownership of at least 50 percentage points has not occurred since January 1, 1960, the beginning of the taxable year, it is necessary to determine whether such an increase has occurred since January 1, 1959, the beginning of the prior taxable year. The aggregate increase in percentage ownership (attributable to purchases) since January 1, 1959, is 71 percentage points (8 from B, 10 each from C and G, 5 each from D, E, F, H, I, J, and K, and 4 each from M and N). Therefore, section 382(a) applies as of December 31, 1960, to eliminate any net operating loss carryovers from 1959 and earlier taxable years to 1960 and subsequent taxable years.

Example (2). Assume that a loss corporation has changed its trade or business during the current taxable year ending on December 31, 1960. Assume further that the following table shows the percentage of the fair market value of the outstanding stock owned by each stockholder as of December 31, 1960, and the percentages owned by such stockholders as of January 1, 1960. The percentage of stock actually owned is followed in parentheses by the percentage owned actually and constructively under section 318(a). It is assumed that all increases in actual ownership are attributable to a purchase or purchases of stock described in paragraph (e) of this section.

Stockholder	Dec. 31, 1960	Jan. 1, 1960
	Percent	Percent
Partnership AB.....	20 (100)	0 (40)
A (a 50-percent partner in AB).....	40 (70)	40 (40)
B (a 50-percent partner in AB).....	30 (70)	0 (20)
C (B's wife).....	10 (70)	0 (20)

(i) Since there are less than 10 stockholders as of December 31, 1960, all of such stockholders are included among the persons who own the greatest percentage of stock.

(ii) Since partnership AB owns, actually and constructively, 100 percent of the outstanding stock on December 31, 1960, and 40 percent on January 1, 1960, AB has sustained an increase of 60 percentage points. Of this increase 20 percentage points are attributable to a purchase by AB.

(iii) A has sustained an increase of 30 percentage points, but none of such increase is attributable to a purchase by A.

(iv) B has sustained an increase of 50 percentage points, of which 30 are attributable to a purchase by B.

(v) C has sustained an increase of 50 percentage points, of which 10 are attributable to a purchase by C.

(vi) Since there has been an aggregate increase (attributable to transactions described in paragraph (e) of this section) of 60 percentage points since January 1, 1960, section 382(a) applies as of December 31, 1960, to eliminate any net operating loss carryovers from 1959 and earlier taxable years to 1960 and subsequent taxable years.

Example (3). (1) Assume that on June 15, 1959, A, an individual, purchases (within the meaning of section 382(a) (4) and paragraph (e) of this section) 100 percent of the outstanding stock of X Corporation, a loss corporation which makes its return on the basis of the calendar year. On June 30, 1959, A transfers such stock to Y Corporation, the entire outstanding stock of which is owned by A. During September 1959, the business of X Corporation is changed.

(ii) Since, as of December 31, 1959, A is considered under section 318(a) as owning 100 percent of the outstanding stock of X Corporation and he owned none of such stock on January 1, 1959, and since A's increase in percentage points is attributable to a purchase of such stock by him, section 382(a) applies as of December 31, 1959, to eliminate any net operating loss carryovers from 1958 and earlier taxable years to 1959 and subsequent taxable years.

(e) *Meaning of "purchase".* (1) In determining whether a "change of ownership" has occurred, an increase in stock ownership which is attributable to an acquisition of stock by the person sustaining the increase (whether the stock acquired is stock of the loss corporation or of a corporation owning stock in the loss corporation) shall be taken into account only if such increase is attributable to a purchase (or purchases) by such person, as defined in section 382(a) (4) and this paragraph. There is a "purchase" of stock only if—

(i) The basis of such stock is determined solely by reference to its cost to the acquirer thereof, and

(ii) Immediately before its acquisition the ownership of such stock would not be attributed to the acquirer by application of the constructive ownership rule of paragraph (a) (2) of this section.

For purposes of subdivision (i) of this subparagraph, if the basis of the stock is determined by reference to its basis in the hands of the transferor thereof or of another person, or by reference to the basis of property (other than cash or its equivalent) exchanged for such stock, then the basis of such stock is not determined solely by reference to its cost to the acquirer. Thus, an acquisition of stock by gift or bequest is not a purchase. However, if stock is received in a taxable exchange, its basis is considered to be determined solely by reference to its cost to the acquirer. Thus, if A owns a house which he exchanges for stock in a loss corporation, the basis of the stock is determined solely by reference to its cost to A. For purposes of subdivision (ii) of this subparagraph, if, immediately before any acquisition of stock, the acquirer would be considered under the constructive ownership rule of paragraph (a) (2) of this section as owning less than 100 percent of the stock owned by the transferor, then the acquirer shall be considered as owning, immediately before such acquisition, only

that proportion of the stock so acquired as is equal to the proportion of the total stock owned by the transferor which the acquirer would be so considered as owning at such time. Thus, if A acquires stock from B, his wife, A has not made a "purchase" because all the stock so acquired would be considered as owned by A immediately before the acquisition. However, if C and D (who are otherwise unrelated) are equal partners in a partnership and if C acquires 50 shares of stock from D, only 25 of such shares will be considered as owned by C immediately before the acquisition.

(2) If a person acquires stock with a view to invoking the constructive ownership rule of paragraph (a) (2) of this section so that a later acquisition of stock by, or from, such person will not qualify as a "purchase" under section 382(a) (4), the earlier acquisition will be disregarded solely for the purpose of determining whether the later acquisition is a "purchase." Moreover, in determining whether an acquisition of stock is a "purchase" under section 382(a) (4), negligible holdings of stock or of an interest in a partnership or trust will be disregarded. This subparagraph may be illustrated by the following example:

Example. A owns all or part of the outstanding stock of X Corporation, a loss corporation. A desires to sell his stock to Y Corporation and Y Corporation desires to purchase such stock. However, Y Corporation wishes to avoid the provisions of section 382(a). Therefore, A buys stock of Y Corporation and thereafter Y Corporation acquires for cash all or part of A's stock in X Corporation. Since the purpose of A's acquisition of stock in Y Corporation is avoidance of the provisions of section 382(a), such acquisition is ignored and Y Corporation's acquisition from A of stock in X Corporation is considered a "purchase" under section 382(a) (4).

(f) *Increase in percentage points attributable to an indirect purchase of stock.* (1) An increase in percentage points may be attributable to a purchase of stock of a corporation which owns stock of the loss corporation. For example, if X Corporation owns 100 shares of stock of Y Corporation and if A purchases 20 percent in value of the outstanding stock of X Corporation, this will be considered a purchase by A of 20 shares of stock of Y Corporation.

(2) An increase in percentage points may also be attributable to a purchase of an interest in a partnership or trust which owns stock of the loss corporation. For example, if a partnership owns 100 shares of the stock of Y Corporation, a purchase by A of a 20-percent interest in the partnership will be considered a purchase by A of 20 shares of the stock of Y Corporation. Similarly, if a trust owns 100 shares of stock of a loss corporation, and if A purchases an interest in the trust which on an actuarial basis is worth 20 percent, this will be considered a purchase by A of 20 shares of stock of the loss corporation.

(g) *Increase in percentage points attributable to a decrease in outstanding stock.* (1) An increase in percentage points may be attributable to a decrease in the amount of outstanding stock of a loss corporation. For example, if A and B each owns 50 percent in value of the

outstanding stock of X Corporation, a redemption by X Corporation of all of B's stock will increase A's ownership of stock by 50 percentage points.

(2) An increase in percentage points may also be attributable to a decrease in the outstanding stock of a corporation owning, directly or indirectly, stock in the loss corporation. For example, if X Corporation owns 100 percent of the outstanding stock of Y Corporation, a loss corporation, and if A and B each owns 50 percent of the value of the outstanding stock of X Corporation, a redemption by X Corporation of all of B's stock will increase A's indirect ownership of the outstanding stock of Y Corporation by 50 percentage points.

(3) If a decrease in the amount of outstanding stock of a corporation (whether a loss corporation or a corporation owning, directly or indirectly, stock in a loss corporation) results from a redemption to pay death taxes to which section 303 applies, such decrease shall not be taken into account in determining whether there has occurred an increase of at least 50 percentage points under paragraph (d) of this section. For purposes of the preceding sentence, a decrease in outstanding stock results from a redemption to which section 303 applies only to the extent that the amount distributed in redemption does not exceed the sum of the items described in paragraphs (1) and (2) of section 303(a). Thus, if the amount of \$100,000 is distributed in redemption of 100 shares and if the sum of the items described in paragraphs (1) and (2) of section 303(a) is \$60,000, a decrease in outstanding stock of only 60 shares will be considered to result from a redemption to which section 303 applies.

(h) *Change in trade or business.* (1) The provisions of section 382(a) are applicable only if the loss corporation has not continued to carry on a trade or business substantially the same as that conducted before any increase in stock ownership which is taken into account in determining under paragraph (d) of this section whether a change of ownership has occurred. The change in trade or business may occur at any time on or after the date of the earliest such increase during the period beginning on the first day of the loss corporation's prior taxable year. For example, assume that on December 31, 1958 (the end of the corporation's taxable year), the following shareholders own a percentage of the fair market value of the outstanding stock which is greater than each owned at the beginning of the corporation's prior taxable year (January 1, 1957) and that all increases are attributable to purchases within the meaning of paragraph (e) of this section. The increase in percentage points and the date of purchase is shown for each such shareholder:

Shareholder	Increase	Date of purchase
	Percent	
A.....	20	Sept. 15, 1958
B.....	20	June 15, 1958
C.....	10	Mar. 15, 1958
D.....	10	June 15, 1957

Since there have been increases in stock ownership which aggregate at least 50 percentage points, section 382(a) is applicable if the corporation has not continued to carry on a trade or business substantially the same as that conducted immediately before June 15, 1957, the date on which the first purchase occurred during the 2-year period.

(2) Section 382(a) may apply as of the close of a taxable year even though neither a change of ownership nor a change in trade or business has occurred during such year. For example, if during 1958 there is a purchase of at least 50 percent of the fair market value of a corporation's outstanding stock followed by a change in the corporation's trade or business, section 382(a) will apply as of December 31, 1958, to eliminate any net operating loss carryovers from 1957 and prior taxable years to 1958 and subsequent taxable years, and, even though no changes in stock ownership occur during 1959, section 382(a) will also apply as of December 31, 1959, to eliminate any net operating loss carryover from 1958 to 1959 and subsequent taxable years.

(3) A change in the trade or business of a corporation made in contemplation of a change in stock ownership will be treated as if such change in trade or business had occurred after such change in stock ownership. For example, if a loss corporation changes its business as part of a plan initiated by, or on behalf of, prospective buyers of the loss corporation's stock who wish to avoid the provisions of section 382(a), a subsequent sale of stock to such buyers will cause the change in business to be treated as if it had occurred after the sale.

(4) For purposes of this paragraph, the holding, purchase, or sale for investment purposes of stock, securities, or similar property shall not be considered a trade or business unless such activities historically have constituted the primary activities of the corporation.

(5) In determining whether a corporation has not continued to carry on a trade or business substantially the same as that conducted before any increase in the ownership of its stock, all the facts and circumstances of the particular case shall be taken into account. Among the relevant factors to be taken into account are changes in the corporation's employees, plant, equipment, product, location, customers, and other items which are significant in determining whether there is, or is not, a continuity of the same business enterprise. These factors shall be evaluated in the light of the general objective of section 382(a) to disallow net operating loss carryovers where there is a purchase of the stock of a corporation with losses for the purpose of using its loss carryovers to offset gains of a business unrelated to that which produced the losses. However, the prohibited utilization of net operating loss carryovers to offset gains of a business unrelated to that which produced the losses is not dependent upon considerations of purpose, motive, or intent, but rather is established by the objective facts of the particular case. The principles set forth in this subparagraph shall be applied in accordance with the rules

set forth in the following subparagraphs of this paragraph.

(6) A corporation has not continued to carry on a trade or business substantially the same as that conducted before any increase in the ownership of its stock if the corporation is not carrying on an active trade or business at the time of such increase in ownership. Thus, if the corporation is inactive at the time of such an increase and subsequently is reactivated in the same line of business as that originally conducted, the corporation has not continued to carry on a trade or business substantially the same as that conducted before such increase in stock ownership. This subparagraph may be illustrated by the following examples:

Example (1). X Corporation is engaged in the business of manufacturing and selling machinery. On January 1, 1958, the corporation suspends its manufacturing activities and begins to reduce its inventory of finished products because of general adverse business conditions and lack of profits. During the period between January 1 and September 1, 1958, the business of the corporation remains dormant. On September 1, 1958, A, an individual, purchases at least 50 percent in value of X Corporation's outstanding stock. On October 1, 1958, the corporation begins to manufacture the same type of machinery it manufactured before January 1, 1958. The reactivation of the corporation in the same line of business as that conducted before January 1, 1958, does not constitute the carrying on of a trade or business substantially the same as that conducted before the increase in stock ownership.

Example (2). Y Corporation is engaged in the business of manufacturing machinery. On January 1, 1958, the corporation suspends its manufacturing activities because of a fire which disrupts the operation of its plant. During the period between January 1 and June 1, 1958, substantial efforts are made to reactivate the business of the corporation by reconstructing the damaged plant. On June 1, 1958, A, an individual, purchases at least 50 percent in value of Y Corporation's outstanding stock. On July 1, 1958, the corporation resumes its normal manufacturing activities. The fact that the corporation's normal activities are temporarily suspended at the time of the increase in ownership does not of itself constitute a failure to carry on a trade or business substantially the same as that conducted before the increase in stock ownership.

(7) A corporation has not continued to carry on a trade or business substantially the same as that conducted before an increase in the ownership of its stock if the corporation discontinues more than a minor portion of its business carried on before such increase. In determining whether the discontinued activities are more than "minor" for purposes of the preceding sentence, consideration shall be given to whether the discontinuance of the activities has the effect of utilizing loss carryovers to offset gains of a business unrelated to that which produced the losses. This subparagraph may be illustrated by the following examples:

Example (1). X Corporation, a calendar-year taxpayer, is engaged in three separate businesses, A, B, and C. Approximately one-half of X Corporation's total business activities (measured in terms of capital invested, gross income, size of payroll, and similar factors) relates to business A, 30 percent to business B, and the remaining 20 percent to business C. On December 31,

1957, X Corporation has substantial net operating loss carryovers all of which are attributable to the operation of business C. On June 1, 1958, Y Corporation purchases at least 50 percent in value of X Corporation's outstanding stock and during 1959 X Corporation discontinues business C. As of December 31, 1959, X Corporation has not continued to carry on substantially the same trade or business as that conducted prior to the increase in ownership.

Example (2). Assume the same facts as in example (1), except that all of X Corporation's net operating loss carryovers are attributable to business A and that the capital released by the discontinuance of business C is used to revitalize business A. Since the discontinuance of business C does not result in the utilization of net operating losses attributable to one business to offset gains of a business unrelated to that which produced the losses, the discontinuance of such business does not of itself constitute the failure to carry on substantially the same trade or business as that conducted prior to the increase in ownership.

(8) If, after an increase in ownership, the corporation continues to carry on its prior business activities undiminished, the addition by the corporation of a new trade or business does not constitute a failure to carry on substantially the same trade or business. This subparagraph may be illustrated by the following example:

Example. X Corporation, a calendar-year taxpayer, is engaged in the manufacture and sale of electrical appliances and has sustained substantial net operating losses. On June 30, 1958, Y Corporation purchases 100 percent of X Corporation's outstanding stock. During 1959, X Corporation continues undiminished its activities in the manufacture and sale of electrical appliances and also diversifies its activities by acquiring a cement manufacturing plant. The addition of the cement manufacturing business by X Corporation does not of itself constitute a failure to carry on substantially the same trade or business even though net operating loss carryovers attributable to the electrical appliance business are used to offset profits of the cement manufacturing business. See, however, section 269 and the regulations thereunder.

(9) A corporation has not continued to carry on a trade or business substantially the same as that conducted before any increase in the ownership of its stock if the corporation changes the location of a major portion of its activities and as a result of such change in location the business of the corporation is substantially altered. This subparagraph may be illustrated by the following examples:

Example (1). X Corporation, a calendar-year taxpayer, is engaged in the business of manufacturing in State A and has sustained substantial net operating losses. On June 30, 1958, Y Corporation purchases all of X Corporation's outstanding stock. During 1959, X Corporation transfers its operations to State B which is several hundred miles distant from State A. In order to effect the change in location, X Corporation disposes of its plant and a large portion of its machinery located in State A. The distance between State A and State B makes it necessary for the majority of the employees of X Corporation to terminate their employment with X Corporation. During 1959, X Corporation resumes its manufacturing activities in State B and continues to make the same product and to serve substantially the same group of customers. However, by reason of the changes in location, em-

ployees, plant, and equipment, X Corporation, on December 31, 1959, is not carrying on substantially the same trade or business as that conducted prior to the increase in ownership.

Example (2). Y Corporation, a calendar-year taxpayer, is engaged in the operation of a department store in city A. On June 30, 1958, Z Corporation purchases all of the outstanding stock of Y Corporation. During 1959, Y Corporation transfers its operations to town B, a suburb of city A. By reason of the change in location, Y Corporation disposes of its interest in the building formerly occupied by it in city A and also substitutes new equipment for a major portion of the equipment formerly utilized by it in city A. After the change in location, Y Corporation continues to sell substantially the same products to substantially the same customers and retains substantially all of the employees formerly employed in city A. Under such circumstances, the change of location does not result in a failure to carry on substantially the same trade or business as that conducted before the increase in ownership.

Example (3). Z Corporation, a calendar-year taxpayer, operates a retail liquor store in town M, utilizing the services of 10 employees. On June 30, 1958, individual A purchases all of the stock of Z Corporation. During 1959, Z Corporation transfers its operations to town O, a distance of 5 miles from its former location. By reason of the change in location, Z Corporation disposes of its interest in the premises formerly occupied by it and also disposes of the license and franchise issued by town M. During 1959, Z Corporation transfers its inventory of liquor to its new location and resumes its retail liquor activities under a license and franchise issued by town O. Z Corporation continues to employ 5 of the 10 employees formerly employed in town M, but the corporation serves a substantially different group of customers. Under these circumstances, the change of location results in a failure to carry on substantially the same trade or business as that conducted before the increase in ownership.

(10) A corporation has not continued to carry on a trade or business substantially the same as that conducted before any increase in the ownership of its stock if the corporation is primarily engaged in the rendition of services by a particular individual or individuals and, after the increase in ownership, the corporation is primarily engaged in the rendition of services by different individuals. This subparagraph may be illustrated by the following examples:

Example (1). X Corporation, a calendar-year taxpayer, is engaged in the business of selling real estate and insurance primarily through the services of individual A as broker. On June 30, 1958, individual B purchases all of the stock of X Corporation, and individual A retires from the business. During the latter part of 1958, X Corporation is engaged primarily in rendering the brokerage services of individual B in the sale of insurance and real estate. On December 31, 1958, the corporation has not continued to carry on a trade or business substantially the same as that conducted before the increase in ownership.

Example (2). Y Corporation, a calendar-year taxpayer, is engaged in the business of operating a beauty salon with 10 employees under the supervision of individual A, who owns all of the stock of Y Corporation and who is held out to the public as the corporation's principal beauty consultant. However, the quality of the services rendered by each of the 10 employees is primarily responsible for attracting the corporation's clientele. On June 30, 1958, individual B purchases all of

the outstanding stock of Y Corporation and individual A retires from the business. During 1959, Y Corporation continues to operate the beauty salon in the same location and continues to serve substantially the same group of customers with substantially the same employees under the supervision of individual B, who is held out to the public as the corporation's principal beauty consultant. On December 31, 1959, Y Corporation has continued to carry on substantially the same trade or business as that conducted before the increase in ownership.

§ 1.382(b) Statutory provisions; special limitations on net operating loss carryovers; change of ownership as the result of a reorganization.

Sec. 382. *Special limitations on net operating loss carryovers.* * * *

(b) *Change of ownership as the result of a reorganization.*—(1) *In general.* If, in the case of a reorganization specified in paragraph (2) of section 381(a), the transferor corporation or the acquiring corporation—

(A) Has a net operating loss which is a net operating loss carryover to the first taxable year of the acquiring corporation ending after the date of transfer, and

(B) The stockholders (immediately before the reorganization) of such corporation (hereinafter in this subsection referred to as the "loss corporation"), as the result of owning stock of the loss corporation, own (immediately after the reorganization) less than 20 percent of the fair market value of the outstanding stock of the acquiring corporation, the total net operating loss carryover from prior taxable years of the loss corporation to the first taxable year of the acquiring corporation ending after the date of transfer shall be reduced by the percentage determined under paragraph (2).

(2) *Reduction of net operating loss carryover.* The reduction applicable under paragraph (1) shall be the percentage determined by subtracting from 100 percent—

(A) The percent of the fair market value of the outstanding stock of the acquiring corporation owned (immediately after the reorganization) by the stockholders (immediately before the reorganization) of the loss corporation, as the result of owning stock of the loss corporation, multiplied by

(B) Five.

(3) *Exception to limitation in this subsection.* The limitation in this subsection shall not apply if the transferor corporation and the acquiring corporation are owned substantially by the same persons in the same proportion.

(4) *Net operating loss carryovers to subsequent years.* In computing the net operating loss carryovers to taxable years subsequent to a taxable year in which there was a limitation applicable to a net operating loss carryover by operation of this subsection, the income in such taxable year, as computed under section 172(b)(2), shall be increased by the amount of the reduction of the total net operating loss carryover determined under paragraph (2).

(5) *Attribution of ownership.* If the transferor corporation or the acquiring corporation owns (immediately before the reorganization) any of the outstanding stock of the loss corporation, such transferor corporation or acquiring corporation shall, for purposes of this subsection, be treated as owning (immediately after the reorganization) a percentage of the fair market value of the acquiring corporation's outstanding stock which bears the same ratio to the percentage of the fair market value of the outstanding stock of the loss corporation (immediately before the reorganization) owned by such transferor corporation or acquiring corporation as the fair market value of the total outstanding stock of the loss corporation (immediately before the reorganization) bears to the fair market value of the

total outstanding stock of the acquiring corporation (immediately after the reorganization).

(6) *Stock of corporation controlling acquiring corporation.* If the stockholders of the loss corporation (immediately before the reorganization) own, as a result of the reorganization, stock in a corporation controlling the acquiring corporation, such stock of the controlling corporation shall, for purposes of this subsection, be treated as stock of the acquiring corporation in an amount valued at an equivalent fair market value.

§ 1.382(b)-1 Change of ownership as the result of a reorganization.

(a) *In general.* (1) Section 382(b)(1) provides that if, in the case of a reorganization described in section 381(a)(2), either the transferor corporation or the acquiring corporation has a net operating loss carryover which is a carryover to the first taxable year of the acquiring corporation ending after the date of transfer, the amount of such carryover which may be used by the acquiring corporation is reduced unless the stockholders (immediately before the reorganization) of the corporation possessing the carryover (hereinafter called the "loss corporation") own, immediately after the reorganization, at least 20 percent of the fair market value of the outstanding stock of the acquiring corporation. See paragraph (b) of § 1.381(b)-1 for determination of the date of transfer, and paragraph (b) of this section for computation of the amount of the reduction.

(2) The ownership of at least 20 percent of the fair market value of the stock of the acquiring corporation after the reorganization must result from the ownership of stock in the loss corporation immediately before the reorganization. Thus, if stockholders of a transferor-loss corporation before the reorganization also own stock of the acquiring corporation at such time, such stock of the acquiring corporation is not considered as owned after the reorganization by such stockholders as a result of owning stock in the loss corporation in determining whether the 20-percent requirement is satisfied. Moreover, the stockholders (immediately before the reorganization) of a transferor-loss corporation shall not be regarded as owning, immediately after the reorganization, any stock of the acquiring corporation which is not distributed to such stockholders pursuant to the plan of reorganization.

(3) If the net operating loss carryovers of a loss corporation are reduced under section 382(b)(1), then in computing the net operating loss deduction of the acquiring corporation for its first taxable year ending after the date of transfer, that portion of such deduction which is attributable to the net operating loss carryovers of the loss corporation is limited to the amount of such carryovers minus the reduction. Thus, if the net operating loss carryovers of the loss corporation are \$100,000 and if the amount of the reduction is \$60,000, only \$40,000 of such carryovers may be used by the acquiring corporation in computing its net operating loss deduction under section 172(a) for its first taxable year end-

ing after the date of transfer. The reduction provided in section 382(b)(1) is applied to the aggregate of the allowable net operating loss carryovers of the loss corporation without regard to the taxable years in which the net operating losses were sustained.

(4) See paragraph (e) of this section for the effect of the reduction in subsequent taxable years of the acquiring corporation.

(5) The reduction provided by section 382(b)(1) may apply to the carryovers of more than one corporation a party to the reorganization. For example, assume that X Corporation acquires the assets of Y Corporation and of Z Corporation in a reorganization described in section 381(a)(2) and that both X Corporation and Y Corporation have net operating loss carryovers at the date of the reorganization. The reduction under section 382(b)(1) will apply to the net operating loss carryovers of X Corporation unless the stockholders (immediately before the reorganization) of X Corporation own, immediately after the reorganization, at least 20 percent of the fair market value of the outstanding stock of X Corporation. Similarly, the reduction under section 382(b)(1) will apply to the net operating loss carryovers from Y Corporation unless the stockholders (immediately before the reorganization) of Y Corporation own, immediately after the reorganization, at least 20 percent of the fair market value of the outstanding stock of X Corporation.

(6) Section 382(b) applies only with respect to those reorganizations described in section 381(a)(2). However, a series of transactions which purport to be a reorganization qualifying under section 368(a)(1)(B) followed by a liquidation qualifying under section 332, but which in substance comprise a reorganization qualifying under section 368(a)(1)(C), will be considered as a reorganization of the last-described type for purposes of section 382(b) and this section.

(7) See § 1.382(c)-1 for definition of the term "stock" as used in this section.

(b) *Amount of reduction.* (1) The amount of the reduction provided in section 382(b)(1) shall be determined as follows:

(i) Determine the percentage of the fair market value of the outstanding stock of the acquiring corporation owned, immediately after the reorganization, by the stockholders (immediately before the reorganization) of the loss corporation, which is attributable to their ownership of stock in the loss corporation immediately before the reorganization.

(ii) If the percentage determined under subdivision (i) of this subparagraph is less than 20 percent, compute the difference between such percentage and 20 percent, and multiply such difference by five. The resulting product is the percentage by which the net operating loss carryovers are reduced.

(2) Subparagraph (1) of this paragraph may be illustrated by the following example:

Example. Assume that X Corporation acquires the assets of Y Corporation, a loss

corporation, in a reorganization described in section 381(a)(2), and that immediately after the reorganization the former stockholders of Y Corporation, as the result of owning stock of Y Corporation, own 8 percent of the fair market value of X Corporation's outstanding stock. The difference between 8 percent and 20 percent is 12 percent, which when multiplied by five produces 60 percent. Therefore, the amount of the reduction is equal to 60 percent of the net operating loss carryovers from the loss corporation, so that if the net operating loss carryovers from Y Corporation amounted to \$100,000, the amount of the reduction would be \$60,000.

(c) *Acquisitions designed to avoid section 382(b).* The purpose of the 20-percent requirement of section 382(b)(1) is to ensure that the net operating loss carryovers from a corporation a party to a reorganization will be allowed in full only when the shareholders of the loss corporation have a substantial continuing interest in the acquiring corporation, thereby ensuring that the carryovers will be utilized to some extent for the benefit of those persons who were owners of the loss corporation before the reorganization. Therefore, in applying section 382(b)(1), any acquisition of stock of a loss corporation will be disregarded if made for the purpose of avoiding the 20-percent continuity of interest requirement. Moreover, two or more successive reorganizations will be treated as if they had occurred simultaneously in cases where they are undertaken with a view to avoiding the 20-percent continuity requirement. These rules may be illustrated by the following examples:

Example (1). Assume that X Corporation desires to merge into Y Corporation, a loss corporation, in a reorganization. A and B, who are the controlling stockholders of X Corporation, with a view to avoiding the 20-percent continuity of interest requirement of section 382(b)(1), acquire for cash 40 percent of the fair market value of the outstanding stock of Y Corporation (or acquire an option to purchase such stock, which option they exercise shortly after the merger). Thereafter, Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies. In determining whether the 20-percent continuity requirement is satisfied (and, if not, the amount of the reduction under section 382(b)(2)), the stock of Y Corporation purchased by A and B (or acquired upon their exercise of the option) will be considered as outstanding immediately after the reorganization but will not be considered as owned by persons who were stockholders of Y Corporation immediately before the reorganization.

Example (2). Assume that X Corporation, which has a net worth of \$2,000,000, desires to acquire the assets of Y Corporation, a loss corporation, which has a net worth of \$100,000. X Corporation also desires to acquire the assets of Z Corporation, which has a net worth of \$400,000. With a view to avoiding the 20-percent continuity requirement, Z Corporation acquires the assets of Y Corporation in a reorganization to which section 381(a) applies. Immediately after the reorganization, the former stockholders of Y Corporation own 20 percent of the fair market value of the outstanding stock of Z Corporation. Shortly thereafter, X Corporation acquires the assets of Z Corporation in a reorganization to which section 381(a)

applies. Immediately after the reorganization, the former stockholders of Y Corporation own 4 percent of the fair market value of the outstanding stock of X Corporation. Under these circumstances, the application of section 382(b)(1) to the net operating loss carryovers of Y Corporation shall be determined by reference to the fair market value of the outstanding stock of X Corporation owned, immediately after the successive reorganizations, by the stockholders (immediately before the successive reorganizations) of Y Corporation. Therefore, the net operating loss carryovers from Y Corporation will be reduced by 80 percent.

(d) *Exception to application of section 382(b).* (1) Section 382(b)(3) provides an exception to the application of the reduction provided in section 382(b)(1). Under this exception there is no reduction if, immediately before the reorganization, the transferor corporation and the acquiring corporation are owned substantially by the same persons in the same proportion. If the acquiring corporation is not in existence immediately before the reorganization (as in the case of a statutory consolidation), the requirements of section 382(b)(3) are not met unless the transferor corporations immediately before the reorganization are owned substantially by the same persons in the same proportion.

(2) The transferor corporation and the acquiring corporation will be considered as owned substantially by the same persons in the same proportion only if the same persons own substantially all the stock of the corporations in substantially the same proportion. This rule may be illustrated by the following examples:

Example (1). A and B each owns 50 percent of the fair market value of the outstanding stock of X Corporation. A owns 52 percent and B owns 48 percent of the fair market value of the outstanding stock of Y Corporation. Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies. The exception provided in section 382(b)(3) is applicable.

Example (2). A and B each owns 50 percent of the fair market value of the outstanding stock of X Corporation. A owns 60 percent and B owns 40 percent of the fair market value of the outstanding stock of Y Corporation. Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies. The exception provided in section 382(b)(3) is not applicable.

Example (3). A and B each owns 48 percent of the fair market value of the outstanding stock of X Corporation and of Y Corporation. C owns the remaining 4 percent of X Corporation and D owns the remaining 4 percent of Y Corporation. Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies. The exception provided in section 382(b)(3) is applicable.

Example (4). A and B each owns 40 percent of the fair market value of the outstanding stock of X Corporation and of Y Corporation. C owns the remaining 20 percent of X Corporation and D owns the remaining 20 percent of Y Corporation. Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies. The exception provided in section 382(b)(3) is not applicable.

(3) The exception provided in section 382(b)(3) is not applicable in any case in which stock of the transferor or acquiring corporation is acquired or disposed of for the purpose of meeting the requirements of section 382(b)(3). For example, section 382(b)(3) is not applicable if A, owning 100 percent of the outstanding stock of X Corporation and 75 percent of the outstanding stock of Y Corporation, a loss corporation, acquires the remaining 25 percent of the outstanding stock of Y Corporation with a view to merging the two corporations.

(e) *Carryovers to subsequent years.* (1) The reduction provided in section 382(b)(1) applies only to net operating loss carryovers to the first taxable year of the acquiring corporation ending after the date of transfer. However, section 382(b)(4) contains a rule to ensure that the portion of the carryovers equal to the amount of the reduction will not be available for deduction in subsequent taxable years of the acquiring corporation. This rule provides that if a reduction is applicable under section 382(b)(1), then in computing net operating loss carryovers from taxable years of the transferor and acquiring corporations ending on or before the date of transfer to taxable years of the acquiring corporation subsequent to the first taxable year ending after the date of transfer, the income of the acquiring corporation for such first taxable year, as computed under section 172(b)(2) (without regard to the fact that the deduction under section 172(a) is reduced by the amount computed under section 382(b)(2)), shall be increased by the amount of the reduction computed under section 382(b)(2) for that year. The preceding rule may be illustrated by the following example:

Example. X Corporation and Y Corporation are organized on January 1, 1957, and each makes its return on the basis of the calendar year. On December 31, 1958, Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies. Immediately after the reorganization, those persons who were stockholders of X Corporation immediately before the reorganization own 10 percent of the fair market value of the outstanding stock of Y Corporation. The net operating losses and the taxable income (computed without any net operating loss deduction) of the two corporations are as follows:

	X Corporation (transferor)	Y Corporation (acquirer)
Year:		
1957	(\$5,000)	(\$5,000)
1958	(15,000)	(1,000)
1959		5,000

The computation of the carryovers to Y Corporation's calendar year 1960 may be illustrated as follows:

(1) *X Corporation's 1957 loss.* The carryover to 1960 is \$0, computed as follows:
 Net operating loss----- \$5,000

Less:

X's 1958 taxable income		\$0
Y's 1959 taxable income before adjustment under section 382		
(b) (4)	\$5,000	
Plus amount of reduction computed under section 382(b) (2)		
(50% of \$20,000)	10,000	
		15,000
Carryover to 1960		\$15,000
(ii) Y Corporation's 1957 loss. The carryover to 1960 is \$0, computed as follows:		0
Net operating loss		\$5,000
Less:		
Y's 1958 taxable income		\$0
Y's 1959 taxable income before net operating loss deduction and adjustment under section 382(b) (4)		
Minus Y's 1959 net operating loss deduction (i.e., X's 1957 carryover)	\$5,000	
Plus amount of reduction under section 382(b) (2)	10,000	
		10,000
Carryover to 1960		0
(iii) X Corporation's 1958 loss. The carryover to 1960 is \$10,000, computed as follows:		
Net operating loss		\$15,000
Less:		
X's 1957 taxable income		\$0
Y's 1959 taxable income before net operating loss deduction and adjustment under section 382(b) (4)		
Minus Y's 1959 net operating loss deduction (i.e., X's 1957 carryover of \$5,000 and Y's 1957 carryover of \$5,000)	10,000	
Plus amount of reduction under section 382(b) (2)	10,000	
		5,000
Carryover to 1960		10,000
(iv) Y Corporation's 1958 loss. The carryover to 1960 is \$1,000, computed as follows:		
Net operating loss		\$1,000
Less:		
Y's 1957 taxable income		\$0
Y's 1959 taxable income before net operating loss deduction and adjustment under section 382(b) (4)		
Minus Y's 1959 net operating loss deduction (i.e., X's 1957 carryover of \$5,000, Y's 1957 carryover of \$5,000, and X's 1958 carryover of \$15,000)	25,000	
Plus amount of reduction under section 382(b) (2)	10,000	
		0
Carryover to 1960		1,000

(v) Summary of carryovers to 1960. The aggregate of the net operating loss carryovers to 1960 is \$11,000, computed as follows:

X's 1958 loss	\$10,000
Y's 1958 loss	1,000
Total	11,000

(2) If the date of transfer is on a day other than the last day of a taxable year of the acquiring corporation, and if the reduction provided in section 382(b) (1) applies to net operating loss carryovers of the transferor corporation, then for purposes of section 381(c) (1) (C), the adjustment provided in section 382(b) (4) shall be considered as an increase in income of the "postacquisition part year" and no portion of such adjustment shall be considered as an increase in income of the "preacquisition part year."

(f) Attribution of ownership. (1) Section 382(b) (5) provides a special rule for determining whether the reduction provided in section 382(b) (1) applies in cases where, immediately before the reorganization, either the transferor cor-

poration or the acquiring corporation owns outstanding stock of the loss corporation. Under this rule, the transferor or acquiring corporation (which ever owns stock of the loss corporation) is treated as owning, immediately after the reorganization, a percentage, A, of the fair market value of the acquiring corporation's outstanding stock which bears the same ratio to B (the percentage of the fair market value of the stock of the loss corporation owned, immediately before the reorganization, by such transferor or acquiring corporation) as C (the fair market value of the outstanding stock of the loss corporation immediately before the reorganization) bears to D (the fair market value of the outstanding stock of the acquiring corporation immediately after the reorganization). Stated algebraically, the percentage of the fair market value of the acquiring corporation's outstanding stock treated as owned by the transferor or acquiring corporation immediately after the reorganization, A, equals—

Value of stock of loss corporation immediately before reorganization (C)
 Value of stock of acquiring corporation immediately after reorganization (D)

Percentage of stock of loss corporation owned by transferor or acquiring corporation immediately before reorganization (B)

The preceding rule may be illustrated by the following examples:

Example (1). Assume that X Corporation owns 25 percent of the fair market value of the outstanding stock of Y Corporation, a loss corporation; that X Corporation acquires the assets of Y Corporation in a reorganization to which section 381(a) applies; that immediately before the reorganization the total outstanding stock of Y Corporation has a fair market value of \$10,000; and that immediately after the reorganization the total outstanding stock of X Corporation has a fair market value of \$50,000. For the purpose of determining whether the reduction provided in section 382(b) (1) is applicable (and, if so, the amount of the reduction computed under section 382(b) (2)), X Corporation is treated as owning (immediately after the reorganization) 5 percent of the fair market value of its outstanding stock, determined as follows.

$$\frac{\$10,000 (C)}{\$50,000 (D)} \times 25\% (B) = 5\% (A)$$

Thus, if the other former stockholders of Y Corporation own, after the reorganization, at least 15 percent of the fair market value of the outstanding stock of X Corporation as the result of owning stock in Y Corporation, there will be no reduction under section 382(b) (1).

Example (2). Assume the same facts as in example (1), except that Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies and that immediately after the reorganization the total outstanding stock of Y Corporation has a fair market value of \$50,000. The result is the same as that in example (1). X Corporation is treated as owning (immediately after the reorganization) 5 percent of the fair market value of the outstanding stock of Y Corporation. Thus, there will be no reduction under section 382(b) (1) if those persons (other than X Corporation) who were stockholders of Y Corporation immediately before the reorganization own at least 15 percent of the fair market value of the outstanding stock of Y Corporation immediately after the reorganization.

(2) The provisions of paragraph (5) of section 382(b) do not apply with respect to an interest in a loss corporation which is acquired for the purpose of avoiding the 20-percent continuity of interest requirement of section 382(b) (1). Thus, paragraph (5) of section 382(b) does not apply with respect to stock of a loss corporation which is acquired by another corporation with a view to causing a merger of the two corporations. For example, if X Corporation owns 15 percent of the fair market value of the outstanding stock of Y corporation, a loss corporation, and if X Corporation purchases an additional 15 percent with a view to causing a merger of the two corporations, paragraph (5) of section 382(b) applies only with respect to the stock previously held by X Corporation and not to the stock so purchased.

(g) Stock of corporation controlling acquiring corporation. (1) Section 382(b) (6) provides a special rule for determining whether the reduction provided in section 382(b) (1) applies in cases where the transferor corporation is a loss corporation and the former stockholders of the loss corporation own, as a result of the reorganization, stock in a corporation which controls (within the meaning of section 368(c)) the acquiring

corporation. In such cases, the former stockholders of the loss corporation are treated as owning, after the reorganization, stock of the acquiring corporation equal in value to the fair market value of their stock in the controlling corporation. This rule may be illustrated by the following example:

Example. X Corporation owns 100 percent of the stock of Y Corporation. In a reorganization to which section 381(a) applies, Y Corporation acquires the assets of Z Corporation, a loss corporation, in exchange for stock of X Corporation. Immediately after the reorganization the total outstanding stock of Y Corporation has a fair market value of \$50,000, and the stockholders (immediately before the reorganization) of the loss corporation own, as a result of the reorganization, stock of X Corporation having a fair market value of \$20,000. For the purpose of determining whether the reduction provided in section 382(b)(1) is applicable (and, if so, the amount of the reduction computed under section 382(b)(2)), the former stockholders of the loss corporation are treated as owning stock of Y Corporation worth \$20,000 (the value of their stock in X Corporation), which is 40 percent (\$20,000 divided by \$50,000) of the fair market value of the outstanding stock of the acquiring corporation.

(2) The 20-percent continuity of interest requirement of section 382(b)(1) applies with respect to an interest in the corporation desiring to utilize the net operating loss carryovers from the loss corporation. Thus, the provisions of section 382(b)(6) and of subparagraph (1) of this paragraph apply only if, at the time of the reorganization, it is intended that the acquiring corporation itself, and not the corporation which controls the acquiring corporation, shall make use of the net operating loss carryovers from the loss corporation. Section 382(b)(6) and subparagraph (1) of this paragraph do not apply if the loss corporation is acquired by a controlled corporation with a view to the liquidation of the controlled corporation into its parent at a time when a substantial part of the net operating loss carryovers from the loss corporation remain to be utilized. (This requirement is satisfied in any case in which such action was contemplated at the time of the reorganization by those persons in a position to determine the policies of the controlled corporation.) In such case, it is the controlling corporation, instead of the controlled corporation, in which the former stockholders of the loss corporation must own a 20-percent interest. Thus, assume in the example appearing in subparagraph (1) of this paragraph, that the total fair market value of the outstanding stock of X Corporation immediately after the reorganization is \$200,000 and that X Corporation causes Y Corporation to be liquidated at a time when a substantial part of the loss carryovers from Z Corporation remain to be utilized. Under these circumstances, the former stockholders of the loss corporation would own after the reorganization only 10 percent (\$20,000 divided by \$200,000) of the fair market value of the outstanding stock of the controlling corporation and the net operating loss

carryovers from Z Corporation to the first taxable year of Y Corporation ending after the date of transfer would accordingly be reduced by 50 percent.

§ 1.382(c) Statutory provisions; special limitations on net operating loss carryovers; definition of stock.

*SEC. 382. Special limitations on net operating loss carryovers. * * **

(c) *Definition of stock.* For purposes of this section, "stock" means all shares except nonvoting stock which is limited and preferred as to dividends.

§ 1.382(c)-1 Definition of stock.

Section 382(c) contains the definition of the term "stock" for purposes of section 382(a) and (b). For these purposes, the term "stock" means all outstanding shares except nonvoting stock which is limited and preferred as to dividends.

§ 1.394 Statutory provisions; effective date of part V, subchapter C, chapter 1 of the Code.

SEC. 394. Effective date of part V—(a) Section 381. Except as otherwise provided in this subchapter, section 381 shall apply to liquidations and reorganizations, the tax treatment of which is determined under this Code.

(b) *Section 382(a).* For purpose of applying the special limitation on net operating loss carryovers in section 382(a), the beginning of the taxable years specified in clauses (i) and (ii) of section 382(a)(1)(A) shall be considered to be the beginning of such taxable years or June 22, 1954, whichever occurs later.

(c) *Section 382(b).* Section 382(b) shall apply to reorganizations, the tax treatment of which is determined under this Code.

§ 1.394-1 Effective date of part V of subchapter C.

(a) *Section 381.* Section 394(a) provides that, except as otherwise provided in subchapter C, chapter 1 of the Code, section 381 shall apply to liquidations and reorganizations, the tax treatment of which is determined under the Internal Revenue Code of 1954. For such liquidations, see section 392 and the regulations thereunder. For such reorganizations, see section 393 and the regulations thereunder.

(b) *Section 382(a).* Section 394(b) provides that for purposes of applying the special limitation on net operating loss carryovers contained in section 382(a), the beginning of the taxable years specified in clauses (i) and (ii) of section 382(a)(1)(A) shall be considered to be the beginning of such taxable years or June 22, 1954, whichever occurs later. Thus, if X Corporation made its returns for 1954 and 1955 on the basis of the calendar year, then in determining whether the limitation contained in section 382(a) applies as of December 31, 1954, the beginning of the taxable years specified in clauses (i) and (ii) of section 382(a)(1)(A) would be June 22, 1954, and in determining whether section 382(a) applies as of December 31, 1955, the beginning of the taxable year specified in clause (i) of section 382(a)(1)(A) would be January 1, 1955,

and the beginning of the taxable year specified in clause (ii) of section 382(a)(1)(A) would be June 22, 1954.

(c) *Section 382(b).* Section 394(c) provides that section 382(b) shall apply to reorganizations, the tax treatment of which is determined under the Internal Revenue Code of 1954. See section 393 and the regulations thereunder.

[F.R. Doc. 60-11946; Filed, Dec. 27, 1960; 8:45 a.m.]

[26 CFR (1954) Part 245]

BEER

Concentration and Reconstitution

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. The regulations are proposed for consideration by reason of a petition for the issuance of regulations dealing with the subject of the proposals by the Union Carbide Corporation, New York, N.Y. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 90 days from the date of publication of this notice in the FEDERAL REGISTER, or prior to the termination of the public hearing scheduled herein, whichever is later. A public hearing on these proposed regulations will be held on Tuesday, March 21, 1961, at 10:00 a.m.; e.s.t., in Room 3313, Internal Revenue Building, Twelfth Street and Constitution Avenue NW., Washington, D.C., at which time and place all interested parties will be afforded an opportunity to be heard, in person or by authorized representative, with reference to the proposals. Persons who plan to attend the hearing are requested to so notify the Commissioner of Internal Revenue, Attention: O:AT, Washington 25, D.C., by March 13, 1961. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954.

[SEAL]

DANA LATHAM,
Commissioner of Internal Revenue.

In order to provide by regulations for (1) the production in a brewery of a concentrate from beer by the removal of water, (2) the reconstitution of beer from such concentrate by brewers by the addition of water and carbon dioxide, (3) the qualification as breweries of plants concentrating or reconstituting beer, (4) the transfer of concentrate between breweries belonging to the same brewer, and (5) the exportation of the concentrate without payment of tax, the regulations in 26 CFR Part 245, "Beer", are amended by inserting the following subpart immediately after subpart AA:

Subpart BB—Concentration and Reconstitution of Beer

Sec.	
245.235	General.
245.236	Application for approval of concentration process.
245.237	Conditions to use of concentration process.
245.238	Application for approval of reconstitution process.
245.239	Conditions to use of reconstitution process.
245.240	Consent of surety on bond of brewer concentrating beer.
245.241	Consent of surety on bond of brewer reconstituting beer.
245.242	Operations.
245.243	Transfers between breweries.
245.244	Exportation.
245.245	Records and reports.

§ 245.235 General.

The term "concentrate" as used in this subpart means a concentrate produced from beer by the removal of water therefrom. A brewer may, in accordance with the provisions of this subpart, produce concentrate, reconstitute beer from concentrate in the brewery, transfer such concentrate from the brewery to another brewery of the same ownership, and remove such concentrate from the brewery without payment of tax for exportation or for transfer to and deposit in foreign-trade zones for exportation or for storage pending exportation. Concentrate shall not be produced, or beer be reconstituted from concentrate, nor shall concentrate be removed from the brewery, except as provided in this subpart. The processes of concentration and reconstitution of beer, approved in accordance with the provisions of this subpart, are deemed to be authorized processes in the production of beer. Every person who produces concentrate, or who reconstitutes beer from concentrate, shall qualify as a brewer in accordance with the provisions of this part, and comply with all applicable provisions thereof. Beer reconstituted from concentrate in accordance with this subpart shall, for the purposes of this chapter, be treated the same as beer which has not been concentrated and reconstituted and all provisions of this chapter applicable to beer which has not been concentrated and reconstituted shall be applicable thereto. Notwithstanding the provisions of § 245.46, a brewer whose bond is or would be less than the maximum penal sum under that section and who commences or continues to concentrate beer under the provisions of this subpart shall have on file with the assistant regional commissioner a bond or bonds with a total penal sum equal to the amount computed under § 245.46 plus the amount of tax at the rate prescribed by law on beer produced and removed for consumption or sale, computed on the maximum quantity of beer to be used in the concentration of beer by him during any one calendar month, but not in excess of the maximum penal sum provided in § 245.46.

§ 245.236 Application for approval of concentration process.

A brewer intending to produce concentrate shall file with the Director, Alcohol and Tobacco Tax Division, through the

assistant regional commissioner, an application on Form 3019, for approval of the process which he intends to use. The application shall describe the concentration process to be employed and the equipment to be used, state the degree to which the beer will be concentrated, and specify the premises where the concentrate will be reconstituted. A brewer shall not employ a concentration process until the application with respect thereto on Form 3019 has been approved by the Director. The Director, Alcohol and Tobacco Tax Division, may require a brewer to furnish with the application a flow diagram, drawing, or other accurate depiction of the process. The Director or the assistant regional commissioner may at any time require the brewer to submit such samples and additional information relating to the operation as he may consider necessary.

§ 245.237 Conditions to use of concentration process.

The Director, Alcohol and Tobacco Tax Division, shall not approve an application for concentration unless the brewer has filed with the assistant regional commissioner a consent of surety on his bond Form 1566 as provided in § 245.240. The process of concentration of beer shall not be used unless the beer on reconstitution will, without the addition of any substance other than carbon dioxide and water, possess substantially the taste, aroma, color, and other characteristics of such beer before concentration. Also, no process of concentration which separates alcoholic spirits from any fermented substance shall be employed in the brewery. Alcoholic spirits so separated or any concentrated fermented substance which on reconstitution solely with water and carbon dioxide will not possess the taste, aroma, color, and other characteristics of beer produced merely by natural fermentation, shall be classed and taxed as distilled spirits. Approval of any application to use any process of concentrating beer shall be conditioned on agreement by the brewer that the concentrate will not be removed from the brewery except as specifically authorized in this subpart and, except in the case of removal for exportation as provided in § 245.244, that the concentrate shall be reconstituted in accordance with the approved process for reconstitution applicable thereto. The Director, Alcohol and Tobacco Tax Division, may withdraw approval of a concentration process in any case where the brewer fails to comply with the provisions of this subpart.

(72 Stat. 1313; 26 U.S.C. 5002)

§ 245.238 Application for approval of reconstitution process.

A brewer intending to reconstitute beer from concentrate shall file with the Director, Alcohol and Tobacco Tax Division, through the assistant regional commissioner, an application on Form 3019, for approval of the process to be used in reconstitution at the brewery. The application shall describe the reconstitution process to be employed and the equipment to be used, and state the degree to which the beer will be reconstituted. The brewer shall state in the

application the name and address of the brewery at which the concentrate to be used is to be produced. The brewer shall not employ the reconstitution process until the application with respect thereto on Form 3019 has been approved by the Director, Alcohol and Tobacco Tax Division. The Director may require a brewer to furnish with the application a flow diagram, drawing, or other accurate depiction of the process. The Director or the assistant regional commissioner may at any time require the brewer to submit such samples and additional information relating to the operation as he may consider necessary.

§ 245.239 Conditions to use of reconstitution process.

The Director, Alcohol and Tobacco Tax Division, shall not approve an application for reconstitution unless the brewer has filed with the assistant regional commissioner a consent of surety on his bond Form 1566, as provided in § 245.241. The process of reconstitution of beer shall consist of the addition to concentrate of carbon dioxide, and of water only in the proportion set forth in the process approved under § 245.238. Sufficient water must be added to the concentrate to restore it to a volume not less than, and an alcoholic content not greater than, that of the beer used to produce the concentrate. Approval of any application to use any process of reconstituting beer shall be conditioned on agreement by the brewer that he will be responsible and accountable for all concentrate removed for transfer to him from the time of removal from the consignor brewery and that the concentrate will not be removed from his brewery except as specifically authorized in this subpart. The Director, Alcohol and Tobacco Tax Division, may withdraw approval of a reconstitution process in any case where the brewer fails to comply with the provisions of this subpart.

§ 245.240 Consent of surety on bond of brewer concentrating beer.

A brewer who intends to produce concentrate shall file with the assistant regional commissioner a Consent of Surety, Form 1533, extending the terms of his bond, Form 1566, to cover the use of the concentration process and containing the following statement:

Whereas, the principal intends to concentrate beer on the above-described premises under the provision of Subpart BB of Part 245, Title 26, Code of Federal Regulations;

Now, therefore, the above-described bond is further specifically conditioned that the principal named therein shall pay, or cause to be paid, on demand of the assistant regional commissioner (alcohol and tobacco tax), an amount equal to the tax which would be due on removal for consumption or sale, including penalties and interest, on all beer used to produce concentrate:

(a) If such concentrate is produced, reconstituted, used, or removed from the brewery in violation of laws or regulations, now or hereafter in force, or in any manner contrary to the terms or conditions of his application for approval of the concentration process; and

(b) If such concentrate is removed without payment of tax for export and is not exported or otherwise accounted for.

The aforesaid terms and conditions shall have the same force and effect as the other terms and conditions stated in the bond.

A brewer who intends to reconstitute beer from concentrate at the premises covered by an application for approval of the concentration process shall also give the consent of surety provided for in § 245.241.

§ 245.241 Consent of surety on bond of brewer reconstituting beer.

A brewer who intends to reconstitute beer from concentrate shall file with the assistant regional commissioner a Consent of Surety, Form 1533, extending the terms and conditions of his bond, Form 1566, to cover the transportation, receipt, and reconstitution of concentrate and containing the following statement:

Whereas, the principal intends to reconstitute beer from concentrate or to receive concentrate and reconstitute beer therefrom on the above-described premises under the provisions of Subpart BB of Part 245, Title 26, Code of Federal Regulations;

Now, therefore, the above-described bond is further specifically conditioned that the principal named therein shall pay, or cause to be paid, on demand of the assistant regional commissioner (alcohol and tobacco tax), an amount equal to the tax which would have been due on removal for consumption or sale, including penalties and interest, on all beer used to produce concentrate:

(a) If such concentrate is transported, reconstituted, or removed from the brewery in violation of laws or regulations, now or hereafter in force, or in any manner contrary to the terms or conditions of his application for approval of the process for reconstitution;

(b) If such concentrate is removed for transfer to the said brewery from other breweries owned by the said principal, and is not transported, received and accounted for in accordance with laws or regulations now or hereafter in force, and

(c) If such concentrate is removed without payment of tax for export and is not exported or otherwise accounted for.

The aforesaid terms and conditions shall have the same force and effect as the other terms and conditions of the bond.

§ 245.242 Operations.

The operations incident to the production of concentrate and the reconstitution of beer therefrom shall be conducted in the brewery but shall not be conducted in the brewery bottling house or racking room. Each tank, vat, cask, or other container used or intended for use as a receptacle for concentrate shall meet the requirements of § 245.25. Such receptacles shall be identified as containers of concentrate. Concentrate produced shall be identified and accounted for by the serial number of Form 3019 under which it was produced and shall not be mingled with unconcentrated beer. The brewer shall accurately measure the quantity and determine the balling and alcohol content of all (a) beer entered into the concentration process, (b) concentrate produced, (c) concentrate transferred to other breweries belonging to the same brewer, (d) concentrate removed for export, (e) concentrate received, (f) concentrate used in reconstituting beer, and (g) beer reconstituted. Containers of

concentrate transferred to other breweries belonging to the same brewer, and containers of concentrate removed for export shall be marked, branded, and labeled in the same manner as is prescribed for containers of beer in Subpart O of this part and shall be clearly marked as containers of concentrate.

§ 245.243 Transfers between breweries.

Concentrate produced from beer may, under the provisions of this subpart, be removed without payment of tax from the brewery to another brewery belonging to the same brewer (within the limits of ownership and on submission of evidence of control as described in § 245.140). Concentrate may be transferred only to a brewery which is qualified under this subpart for the reconstitution of beer. The provisions of Subpart Q of this part, except as otherwise provided in this section, shall be applicable in respect of transfers of concentrate which is produced under the provisions of this subpart. Concentrate may not be removed in containers of the kind ordinarily used by brewers for the removal of beer for consumption or sale. Reconstituted beer may be mingled with beer at the receiving brewery but concentrate shall not be mingled with unconcentrated beer. The brewer shall give notice on Form 3020 of the shipment and receipt of concentrate (in the manner outlined in §§ 245.145 to 245.147 for Form 2035), reflect the details of such transactions in his daily records, and report such transactions monthly on Form 103 in accordance with the provisions of § 245.245.

§ 245.244 Exportation.

Concentrate produced under the provisions of this subpart may be removed from the brewery without payment of tax (a) for exportation, or (b) for transfer to and deposit in foreign-trade zones for exportation or for storage pending exportation, in accordance with the provisions of Part 252 of this chapter.

§ 245.245 Records and reports.

(a) *Daily record.* A brewer who produces concentrate or reconstitutes beer therefrom under the provisions of this subpart shall, in addition to complying with the requirements of Subpart AA of this part, maintain daily records which will accurately and clearly reflect the quantity and the balling and the alcohol content of all (1) beer entered into the concentration process, (2) concentrate produced, (3) concentrate transferred to other breweries belonging to the same brewer, (4) concentrate exported, (5) concentrate received, (6) concentrate used in reconstituting beer, and (7) beer reconstituted.

(b) *Monthly summary reports.* Where concentrate is produced and/or beer is reconstituted from concentrate the brewer shall reflect by special entries on Form 103, the quantity of beer entered into the concentration process and the quantity of beer reconstituted from concentrate. Where such operations are conducted, the brewer shall likewise prepare and submit monthly, a separate

Form 103, suitably identified and modified, summarizing the concentration and reconstitution operations for the month. This separate Form 103 shall show, in the modified "Materials" section of the form, the quantities (expressed in barrels of 31 gallons and fractions thereof to three decimal places) of concentrate on hand at the beginning and end of the month, and received, and the specific disposition thereof (as "used in reconstitution of beer", "removed for export", "transferred to other breweries"). The quantity of beer which is reconstituted during the month shall be so reported on the face of this form.

[F.R. Doc. 60-12012; Filed, Dec. 27, 1960; 8:47 a.m.]

[26 CFR (1954) Part 252]

EXPORTATION OF LIQUORS

Beer Concentrate

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. The regulations are proposed for consideration by reason of a petition for the issuance of regulations dealing with the subject of the proposals by the Union Carbide Corporation, New York, N.Y. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 90 days from the date of publication of this notice in the FEDERAL REGISTER, or prior to the termination of the public hearing scheduled herein, whichever is later. A public hearing on these proposed regulations will be held on Tuesday, March 21, 1961, at 10:00 a.m., e.s.t., in Room 3313, Internal Revenue Building, Twelfth Street and Constitution Avenue NW., Washington, D.C., at which time and place all interested parties will be afforded an opportunity to be heard, in person or by authorized representative, with reference to the proposals. Persons who plan to attend the hearing are requested to so notify the Commissioner of Internal Revenue, Attention: O:AT, Washington 25, D.C., by March 13, 1961. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954.

[SEAL]

DANA LATHAM,
Commissioner of Internal Revenue.

In order to provide by regulations for the exportation, without payment of tax, of concentrate produced from beer by the removal of water therefrom, the regulations in 26 CFR Part 252, "Exportation of Liquors", are amended by inserting the following subpart immediately after Subpart G:

Subpart Ga—Removal Without Payment of Tax for Exportation or Transfer to a Foreign-Trade Zone of Concentrate Produced From Beer

- Sec.
 252.150a General.
 252.150b Notice, Form 3021.
 252.150c Containers.
 252.150d Procedures applicable to concentrate removed without payment of tax.
 252.150e Marks and brands.
 252.150f Disposition of forms.
 252.150g Return of concentrate.
 252.150h Brewer's report.
 252.150i Processing of Form 3021.
 252.150j Charges and credits on bond.
 252.150k Loss of concentrate in transit.

§ 252.150a General.

Concentrate, produced from beer by the removal of water therefrom under the provisions of Subpart BB of Part 245 of this chapter, may, subject to this subpart, be removed from the brewery without payment of tax, for:

- (a) Export to a foreign country; or
- (b) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation.

All such removals shall be made by the brewer under the provisions of his bond, Form 1566, as extended by consent of surety under the provisions of § 245.240 or § 245.241.

§ 252.150b Notice, Form 3021.

(a) Whenever a brewer intends to remove concentrate without payment of tax from the brewery for exportation from the United States or for transportation to and deposit in a foreign-trade zone, he shall prepare a notice for each such removal on Form 3021, in quadruplicate.

(b) The brewer shall execute on each copy of Form 3021 his agreement to pay on demand from the assistant regional commissioner, an amount equal to the tax which would be due on removal for consumption or sale, including penalties and interest, on all beer used to produce the concentrate removed for the stated purpose and for which proper evidence of exportation or transfer to a foreign-trade zone, as the case may be, has not been furnished as prescribed by this part.

§ 252.150c Containers.

Concentrate may not be removed for export, or for transfer to and deposit in a foreign-trade zone, in containers of the kind ordinarily used by brewers for the removal of beer for consumption or sale.

§ 252.150d Procedures applicable to concentrate removed without payment of tax.

The provisions of §§ 252.30, 252.35 to 252.38, 252.241, 252.245 to 252.247, 252.250 to 252.253, and 252.262 are applicable to concentrate removed under this subpart for exportation or for transfer to and deposit in a foreign-trade zone to the same extent that such provisions are applicable to beer removed for such purposes.

§ 252.150e Marks and brands.

In addition to the marks and brands prescribed in Part 245 of this chapter,

each container of concentrate to be removed without payment of tax under this subpart shall be marked as specified below:

(a) "Beer Concentrate For Export—Without Payment of Tax", where the concentrate is to be removed for export from the United States; or

(b) "Beer Concentrate For Export—Without Payment of Tax Via FTZ No." followed by the number of the zone—where the concentrate is removed for deposit in a foreign-trade zone.

All such markings shall be placed on the containers in the same manner as is prescribed by the regulations in Part 245 of this chapter for the affixing of the original marks.

§ 252.150f Disposition of forms.

On removal of concentrate from the brewery under this subpart, the brewer shall forward one copy of Form 3021 to the assistant regional commissioner, retain one copy in his files, and deliver the original and remaining copy to the officer to whom the shipment is consigned.

§ 252.150g Return of concentrate.

Concentrate removed without payment of tax under this subpart may be returned to the brewery from which removed if lading of the concentrate is delayed for more than the period provided in § 252.262 or where the brewer has other good cause for such return. The brewer shall request the collector of customs to release the concentrate for return to the brewery and, on such release, the collector of customs shall endorse both copies of the appropriate Form 3021 to show his release of the concentrate to the brewery, the brewer shall record the quantity in his daily records, mark the two copies of Form 3021 returned by the collector of customs, "Canceled—Returned to Brewery", and forward one copy to the assistant regional commissioner.

§ 252.150h Brewer's report.

The brewer's records shall reflect the quantity of concentrate removed without payment of tax or returned to the brewery under this subpart, and he shall report the quantity of concentrate so removed or returned on a separate Form 103, in accordance with the provisions of Subpart BB of Part 245 of this chapter.

§ 252.150i Processing of Form 3021.

The processing of Form 3021 by customs officers shall be in accordance with the procedures prescribed in §§ 252.261, 252.264 to 252.267, 252.269 (a) and (c), and 252.290, as the case may be, for the processing of forms prescribed for use for the exportation of beer.

§ 252.150j Charges and credits on bond.

The removal of concentrate from the brewery without payment of tax under this subpart shall constitute a charge against the brewer's bond, Form 1566, of an amount equal to the tax which would be due on removal for consumption or sale, including penalties and interest, on all beer used to produce the concentrate which is removed. Conversely, the satisfactory accounting for

concentrate so removed shall constitute a credit to the bond.

§ 252.150k Loss of concentrate in transit.

When the certifying officer's report on Form 3021 discloses that there has been a loss of concentrate after removal from the brewery and while in transit to the port of export or to the foreign-trade zone, and that such loss was a normal one caused by casualty, leakage, or spillage, the assistant regional commissioner will allow the loss. Where the report discloses that the loss is large or unusual, the assistant regional commissioner shall conduct an investigation of the loss and, if he finds that it occurred by reason of casualty, leakage, or spillage, credit for the loss will be allowed. Where the investigation discloses evidence indicating that the loss in transit resulted from theft or from fraud, the assistant regional commissioner will afford the brewer opportunity to submit a written explanation with respect to the causes of such loss before taking further action. The assistant regional commissioner shall make demand on the brewer for an amount equal to the tax which would be due on removal for consumption or sale, including penalties and interest, on all beer used to produce the quantity of concentrate which is not satisfactorily accounted for.

[F.R. Doc. 60-12013; Filed, Dec. 27, 1960; 8:48 a.m.]

[27 CFR Part 7]

LABELING AND ADVERTISING OF MALT BEVERAGES

Notice of Hearing

Notice is hereby given, pursuant to the provisions of section 5 of the Federal Alcohol Administration Act (49 Stat. 981 as amended; 27 U.S.C 205), of a public hearing to be held on Tuesday, March 21, 1961, at 10:00 a.m., e.s.t., in Room 3313, Internal Revenue Building, Twelfth Street and Constitution Avenue NW., Washington, D.C., at which time and place all interested parties will be afforded opportunity to be heard, in person or by authorized representative, with reference to the proposals, the substance of which is stated below, to amend Regulations No. 7 (27 CFR Part 7), relating to labeling and advertising of malt beverages. Persons who plan to attend the hearing are requested to so notify the Commissioner of Internal Revenue, Attention: O:AT, Washington 25, D.C., by March 13, 1961.

Written data, views, or arguments relevant and material to these proposals may be submitted, in duplicate, for incorporation into the record of hearing (1) by mailing the same to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., provided that they are received prior to the termination of the hearing, or (2) by presenting the same at the said hearing. At the conclusion of the hearing a reasonable opportunity will be afforded interested parties for examination of the record and for the submission of briefs.

Substance of proposals. To amend section 24 (27 CFR 7.24) by relettering paragraphs (b), (c), (d), (e), (f) and (g) as (c), (d), (e), (f), (g) and (h) and inserting a new paragraph (b) reading substantially as follows:

(b) Malt beverages which have been concentrated by the removal of water therefrom and reconstituted by the addition of water and carbon dioxide shall, for the purposes of this part, be labeled in the same manner as malt beverages which have not been concentrated and reconstituted.

Or, in the alternative: To amend section 24 (27 CFR 7.24) by relettering paragraphs (b), (c), (d), (e), (f) and (g) as (c), (d), (e), (f), (g) and (h) and inserting a new paragraph (b) reading substantially as follows:

(b) Malt beverages which have been concentrated by the removal of water therefrom and reconstituted by the addition of water and carbon dioxide shall be designated in the same manner as malt beverages which have not been concentrated and reconstituted, except that the designation shall be qualified by the word "reconstituted" in substantially the same size and kind of type, e.g., "reconstituted beer", "reconstituted ale", "reconstituted stout"; etc.

[SEAL]

DANA LATHAM,
Commissioner of Internal Revenue.

[F.R. Doc. 60-12014; Filed, Dec. 27, 1960;
8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

OPERATION AND MAINTENANCE CHARGES

Colorado River Indian Irrigation Project, Arizona

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the acts of August 1, 1914 and March 7, 1928 (38 Stat. 583, 45 Stat. 210:25 U.S.C. 385-387) and by virtue of the authority delegated by the Secretary of the Interior to the Commissioner, Bureau of Indian Affairs, by Secretarial Order No. 2508, Amendment No. 1 (16 F.R. 473), it is proposed to amend 25 CFR 221.6 and 221.7 as set forth below. The purpose of this amendment is to increase the annual operation and maintenance assessment rate in § 221.6 from \$8.00 to \$8.50 per acre and the assessment rate for excess water in § 221.7 from \$1.50 to \$1.75 per acre foot.

It is the policy of the Department of the Interior whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Commissioner, Bureau of Indian Affairs, Washington 25, D.C., within thirty days of the date of

publication of this notice in the FEDERAL REGISTER.

1. Section 221.6 is amended to read as follows:

§ 221.6 Charges.

The annual basic charge against the land to which water can be delivered under the Colorado River Indian Irrigation Project in Arizona, for the operation and maintenance of that project, is hereby fixed at \$8.50 per irrigable acre, whether water is used or not. Payment of this charge will entitle the wateruser to, but not in excess of, eight acre-feet of water per acre per annum on certain sandy areas as described in a schedule on file at the Colorado Indian Agency, and available for inspection by interested parties, and to five acre-feet of water per annum per irrigable acre on all other lands. With the approval of the Superintendent, additional water, reasonably sufficient to carry away alkali salts, may be allowed on certain alkali tracts at no additional charge for the purpose of reclaiming lands by the usual methods, such as flooding and leaching. The foregoing charges and allotments of water shall become effective for the calendar year 1961 and continue in effect thereafter, until further notice.

2. Section 221.7 is amended to read as follows:

§ 221.7 Excess water charges.

Additional water, if and when available, in excess of basic allowances, may be delivered upon written request to the Superintendent by landowners or users at the rate of \$1.75 per acre foot, or fraction thereof.

GLENN L. EMMONS,
Commissioner.

DECEMBER 21, 1960.

[F.R. Doc. 60-12010; Filed, Dec. 27, 1960;
8:47 a.m.]

National Park Service

[36 CFR Part 7]

SHENANDOAH NATIONAL PARK, VIRGINIA

"Fishing for Fun" in Certain Streams

Basis and purpose. Notice is hereby given that pursuant to §4(a) of the Administrative Procedure Act, approved June 11, 1946 (60 Stat. 238; 5 U.S.C. 1003); authority contained in §3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3); National Park Service Order No. 14 (19 F.R. 8824); and Regional Director, Region One, Order No. 3 (21 F.R. 1493), it is proposed to amend 36 CFR 7.15 as set forth below. The purpose of this amendment is to designate certain streams where "fishing for fun" only is permitted and to limit hours of fishing.

It is the policy of the Department of the Interior whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Superintendent,

Shenandoah National Park, Luray, Virginia, within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

R. TAYLOR HOSKINS,
Superintendent,
Shenandoah National Park.

Section 7.15 is amended by revising paragraph (a) (1) and (3) to read as follows:

§ 7.15 Shenandoah National Park.

(a) *Fishing*—(1) *Applicability of regulations.* The regulations in this section shall govern fishing on those portions of all streams lying wholly within the Park, except for the Rapidan and Staunton Rivers and their tributaries where "fishing for fun" only is permitted with the following restrictions in addition to those set out in subparagraphs (3), (7), and (8) of this paragraph:

(i) Fishing is restricted to artificial flies or lures having one barbless hook.

(ii) No fish of any size may be in possession at any time. All fish caught must be handled carefully and returned immediately to the stream.

Along those portions of the streams which follow the boundary line of the Park, the State of Virginia laws and regulations governing fishing shall apply.

(3) *Season.* The opening date of the trout fishing season and the permissible hours of fishing shall conform with those of the State of Virginia and shall close on the same date as the State, or October 15, whichever date is earlier.

[F.R. Doc. 60-11993; Filed, Dec. 27, 1960;
8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 963]

[Docket No. AO-309-A2]

MILK IN GREAT BASIN MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Great Basin marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington,

D.C., not later than the close of business the 15th day after publication of this decision in the *FEDERAL REGISTER*. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at South Salt Lake City, Utah, on May 10-12, 1960, pursuant to notice thereof which was issued April 15, 1960 (25 F.R. 3420).

The material issues on the record of the hearing relate to:

1. Extension of the marketing area;
2. Limitation of diversion to nonpool plants by a cooperative association;
3. Requirements for producer-handler status;
4. Base-excess payments to producers;
5. Classification of transfers to nonpool plants;
6. Pool plant requirements;
7. Accounting for frozen cream;
8. Shrinkage allowance on milk received in bulk tanks for which a cooperative association is the handler;
9. Advance payments to producers; and
10. Allocation provisions applicable to receipts of packaged sour cream priced under another order.

No evidence was offered with respect to a proposal in the hearing notice to modify the provisions applicable to plants regulated under other orders operating routes in the marketing area. The record presents no issue with respect to this proposal.

Findings and conclusions. Issues 4 and 10 and that portion of issue 5 related to the distance that bulk cream may be moved for manufacturing use as Class II milk were dealt with in a separate decision issued by the Acting Secretary on August 15, 1960 (25 F.R. 7998) and by amendment to the order issued August 26, 1960 (25 F.R. 8293). The following findings and conclusions on the remaining issues are based on evidence presented at the hearing and the record thereof:

1. *Marketing area.* White Pine, Elko and Eureka Counties, Nevada, should be added to the marketing area.

Two producer associations proposed that the area be extended to include the northeastern Nevada counties of White Pine, Elko, and Eureka. These counties are contiguous to the Great Basin marketing area and cover 30,202 square miles with a total population (1960 census) of 22,586. The chief centers of population, the cities of Elko and Ely are each approximately 225 miles from Salt Lake City.

Four handlers regulated under the Great Basin order and two Nevada handlers distribute milk in these counties. The plants of the Nevada handlers are located at Genoa and Reno in western Nevada, more than 300 miles from Elko and Ely. In 1959 sales of the Great Basin handlers in these three counties were 3.7 million pounds. For March 1960, these handlers reported sales of 34,377 gallons (295,642 pounds) to the Nevada Dairy Commission. Based on

such reports 56 percent of total sales in the area were by Great Basin handlers and 44 percent by Nevada handlers. Based on estimated population and per capita sales proponents claimed that their 1959 sales represented 70 percent of total sales. Annual sales of the Utah dealers declined 11 percent in volume from 1955 to 1959.

While sales volumes of Great Basin handlers have declined those of Nevada dealers have increased as have total sales. In 1955 Nevada plant sales were exclusively from a local plant in Ely which is no longer in operation. When this plant ceased operation in 1959 the Genoa plant took over its distribution and expanded its sales in these counties.

The Great Basin producer associations assert that Nevada handlers enjoy certain competitive procurement advantages due to the fact that they purchase milk solely on butterfat value. Under this system no value is allocated to skim milk and the raw material cost of skim milk drinks and buttermilk, Class I products under the Great Basin order, is very low.

The real issue, however, is not so much competitive procurement advantage as the danger that certain Great Basin handlers now serving these counties may find it attractive to establish separate processing plants for these Nevada sales or transfer such sales to already existing unregulated plants. Differences in Nevada and Utah inspection requirements have existed for years. Nevada requires certain barn and milkhouse construction features not required by Utah or the U.S. Public Health Service Code. Until recently Nevada authorities have permitted separate processing of milk from Nevada approved farms for Nevada sales. They had, at the time of the hearing, established a September 1960 deadline by which plants processing milk for sale in Nevada could receive milk only from producers meeting Nevada requirements.

Costs of remodeling existing facilities of all producers supplying the four plants selling in this area were claimed to be prohibitive. Testimony of Nevada health authorities indicated that they had discussed with Great Basin handlers the handling of Nevada milk in segregated plants. Such plants would not engage in sales in the present marketing area, hence the value of their sales would be lost to the pool. While certain Nevada qualified producers might be transferred to such plants, the pool would continue to bear the burden of surplus, equal sharing of which was one of the principal objectives sought by the order.

Great Basin milk continues to be sold in Nevada beyond the deadline. This is presumably achieved by concentrating and processing all such milk in one plant and assigning to such plant all Nevada approved producers. The market has thus at least temporarily halted the potential loss to the pool of the Class I sales historically a part of the market. Incorporation of the three Nevada counties in the marketing area will permit plant operators to process Nevada milk as best fits their needs and health re-

quirements without removing such sales from the pool.

Proponents suggested that a special provision be included for any plant subject to producer pricing of the Nevada Dairy Commission that has insufficient distribution for pool status. Under the proposal such a plant would have had the option of paying the compensatory payment presently provided for nonpool plants on the volume of their sales in the marketing area or of comparing their aggregate payment to the dairy farmers supplying them with milk with the order value of such milk and paying any difference into the pool. They did not propose, however, to make this option available to all handlers operating nonpool distributing plants. It is concluded that no change should be made on the basis of this record in the obligations to the pool from operators of distributing plants that fail to qualify for pool status.

2. *Limitation of diversion by a cooperative association.* A cooperative association should not be limited with respect to the percentage of its milk diverted to nonpool plants.

Three producer cooperatives proposed that the order be amended so as to limit the quantity of milk that a cooperative may divert as producer milk to a nonpool plant. Specifically, they proposed that the percentage of a cooperative's milk which is utilized as Class I by pool handlers and at nonpool plants should be at least 50 percent in the months of August through March and 40 percent in other months. Proponents contended that this would protect the Great Basin market in the event that a cooperative association, through the diversion privilege afforded it, should include the reserve supply of another market in the Great Basin pool without adding the Class I sales of the other market.

In effect, the proposal would extend to cooperative associations performance standards which are similar to those required of pool plants distributing packaged milk in the marketing area. Performance standards are required of pool plants to assure that only those plants which supply milk for fluid consumption in the market may pool their sales. Thus, the dairy farmers supplying such plants share in the marketwide equalization.

In the interest of efficient marketing of milk, the reserve supply of milk for pool plants is allowed to go directly to manufacturing plants rather than to require it to be transported to distributing plants to be pooled. This is accomplished by allowing handlers to divert the milk for their account and also by allowing a cooperative association to divert milk not needed by pool plants to nonpool plants by assuming the responsibility for accounting and pooling such milk.

Although milk which is diverted by a cooperative association is not covered by the performance requirements which a pool plant must meet, it is subject to the performance requirements placed on individual producers, which assures their association with the market in order to share in the marketwide equalization. This requirement is that during any

month at least one-third of a producer's milk must be received at pool plants.

There is no evidence that the present performance requirements of the order will not adequately protect the pool. If the present provisions are inadequate, it would probably be more feasible to modify them rather than to add the proposed provisions. It is concluded that no change should be made at this time to limit diversion by cooperatives.

3. *Requirements for producer-handler status.* The definition of producer-handler should be revised so as to limit the amount of milk a producer-handler may receive other than his own production. Also the qualification for ownership of a producer-handler operation should be clarified.

Producer associations proposed that producer-handlers lose their status as such and become fully regulated handlers if they receive any milk other than their own farm production. The association witness contended that any producer-handler could gain a competitive advantage over other handlers and disrupt the market by disposing of all his own production as Class I milk and supplement such production with milk either from pool plants or diverted directly from other producers, as is now provided under the order. In such a situation producers who ship to pool plants carry the seasonal reserve associated with the Class I sales of the producer-handler without sharing in the Class I sales of the producer-handler's own production.

Large operations which receive milk from their own farm production and rely on other handlers for substantial supplemental supplies, either in bulk or packaged form, are not significantly different from the operations of regular handlers. In addition, such individuals do not assume the risk or cost of providing a full supply. If they are accorded producer-handler status, the pool does not receive the benefits of their Class I sales but acts as a supply balance and carries the reserve supplies necessary for their operation.

It is concluded that a producer-handler should rely on his own production so as to carry his own share of the risk and cost of providing an adequate supply for his customers. However, a producer-handler would not be in a position to make the producers who ship milk to pool plants responsible for bearing the burden of the reserve milk supply associated with his Class I sales if he were allowed to make small purchases to meet emergencies. Therefore, it is further concluded, that a producer-handler should be permitted during any month to purchase from pool plants an amount of milk equal to not more than the larger of five percent of his Class I sales, or 100 pounds on a daily average basis without losing his status as a producer-handler.

Since the exemption of pooling own farm production provides an incentive for individuals to attain producer-handler status, it is necessary to preclude certain devices which may be used to circumvent the intent of the order provisions. Producers proposed that the wording of the order be made more explicit so as to bring under regulation op-

erations which attempt to masquerade as those of producer-handlers through leases with limited risk or by restricted partnerships. The order should provide that a producer-handler operation be limited to individuals, partnerships, and corporations. A partnership or corporation should make available to the market administrator its articles of partnership or incorporation so he may assure himself that all of the producer-handler's operation is organized and run as a single unit without restrictions or limitations. The producer-handler should have the complete risk and financial responsibility for the entire producer-handler operation.

Inclusion of the aforementioned requirements in the producer-handler definition should give greater assurance that no operation will be exempt from pooling its own farm production or sharing its Class I sales to the detriment of producers or the effectiveness of the order.

5. *Classification of transfers to non-pool plants.* The transfer provisions of the order should be amended to assure equitable classification of milk transferred to nonpool plants. The present provisions of the order do not give adequate assurance that milk transferred to a nonpool plant as Class II is not needed by such plant for Class I purposes. This could happen in a plant which has both Class I distribution and manufacturing and its Class I distribution is greater than the receipts from its regular producers. Thus, it might utilize some of the transferred milk purportedly utilized in manufacturing for its Class I uses, while manufacturing receipts of uninspected milk.

Producers proposed that the transfer provision should be amended to provide that milk, skim milk, and cream transferred or diverted to nonpool plants within 525 miles of Salt Lake City be Class II only if the fluid milk products disposed of from the nonpool plant do not exceed the receipts of skim milk and butterfat in milk received during the month from dairy farmers directly supplying such plant. If the Class I disposition of the nonpool plant exceeds the receipts from dairy farmers regularly supplying such plant, it was proposed that the difference should be assigned to the fluid milk products transferred or diverted from a pool plant and classified as Class I milk. If transfers or diversions to a nonpool plant were made during the month from two or more pool plants, it was proposed that any Class I credit should be divided pro rata. Likewise, provision was proposed to prorate available Class I utilization with transfers from plants regulated under other orders.

This method of classifying transfers and diversions from pool plants to non-pool plants accords equitable treatment to Great Basin order handlers and gives appropriate recognition to handlers in other regulated markets in the classification of milk transferred to a common nonpool plant. Giving priority to receipts from dairy farmers supplying Grade A milk directly to a nonpool plant recognizes that they are the regular and

dependable source of supply of milk for fluid use at such plant. This method of classification will safeguard the primary functions of the transfer provision of the order by promoting orderly disposal of reserve supplies and by assuring that shipments to nonpool plants will be classified in an equitable manner.

6. *Pool plant requirements.* The definition of pool plant should be modified by eliminating the inclusion of milk received from nonpool supply plants in determining the percentage requirements for qualification as a pool plant. The Weber Central Dairy Association receives incidental shipments of milk from non-pool plants for disposal in manufactured milk products. The association proposed that these shipments not be included in the receipts used for the purpose of determining its pool plant status. This would enable the association to continue using its plant as an outlet for the reserve supplies of other markets for conversion to manufactured products without jeopardizing its status as a pool plant under the Great Basin order. Changing the pool plant definition as herein recommended would include for this purpose only those receipts which are the regular and dependable supply for the market in the determination requirements for maintaining pool plant status.

7. *Classification and accounting for frozen cream.* No change should be made in the classification and accounting of frozen cream under the Great Basin order.

The Great Basin order provides that the skim milk and butterfat used to produce frozen cream be assigned to Class II use. Producers proposed that since there is no such product produced or sold in the market, the references to it should be deleted from the order. They contended that such an amendment would preclude the possibility of selling frozen cream to consumers in competition with fluid cream.

When frozen cream is produced it is normally stored for future use in ice cream or butter, which are Class II products under the Great Basin order. There is no evidence that frozen cream has been sold directly to consumers.

Under the order any frozen cream that might be produced and placed into storage would be Class II disposition. At such time as the frozen cream is taken out of storage to be used in another product it would be treated as other source milk.

In view of the aforementioned consideration, it is concluded that there is no justification for changing the order provisions pertaining to frozen cream.

8. *Shrinkage.* The shrinkage allowance should be modified so as to permit a handler to receive all of the shrinkage associated with bulk tank milk for which a cooperative association elects to become the handler if the handler receiving such milk regularly accepts such milk on the basis of weights taken at the farm.

The order provides that shrinkage not exceed 2 percent on producer milk and 1½ percent on bulk tank lots of milk received from other handlers. In effect 0.5 percent shrinkage is allotted for the

assembly of milk from farms and 1½ percent for processing and distribution.

A cooperative association may be the handler for milk of its members which it delivers from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association. Thus, the cooperative performs the function of assembling the milk; accordingly any shrinkage associated with this function should not normally be passed on to the handler whose plant receives the milk. However, if the handler elects to use the weights taken at the farm he should be afforded the same shrinkage allowance as is provided for producer milk, since the volume for which he has to account is the same as that for producer milk.

The only difference would be that the cooperative is responsible for reporting the amount of such milk. It is therefore concluded, that the operator of the pool plant should receive the entire 2 percent shrinkage allowance if he notifies the market administrator in advance that he is purchasing such milk from the cooperative association on the basis of farm weights.

Since the limits on allocated shrinkage are only applied to bulk receipts, the order should be modified to provide that shrinkage be prorated only to bulk receipts.

9. Advance payments to producers. The order should provide for an advance payment for producer milk received during the first half of each month.

The Great Basin order provides that producers be paid by the 17th of each month for milk delivered during the previous month. However, the historic practice in this market has been to pay producers twice a month for milk received from them and producers proposed that the order provide for an advance payment to assure the continuation of the practice in the market.

Specifically, producers proposed that for producer milk received during the first 15 days of the month, handlers pay one-half of the amount paid such producers during the preceding month less authorized deductions. This method would in many instances result in a payment which is in excess of the amount otherwise due producers. For example, it would result in an overpayment to producers who do not ship for the full 15 days as well as on occasions when production or prices are lower than the previous month. Nor would it adequately provide for a producer who ships milk to more than one plant during the month. Therefore, it is recommended that the minimum payment for deliveries during the first 15 days of the month be based on the pounds of milk actually delivered during such period.

The use of the Class II price for the previous month times the hundredweight of producer milk will overcome the shortcoming of the method proposed for determining the amount of the advance payment. This is the method used in other orders and it is recommended for the Great Basin order. Administrative detail is kept at a minimum by this method in that no adjustments for but-

terfat, hauling or other deductions are required. However, it will be necessary for a handler to report the receipts of producer milk during the first 15 days of the month to the cooperative association to which a producer belongs. In case of a cooperative association which is also a handler for its producers, it is only necessary for handlers to make an advance payment of the Class II price on the aggregate of the milk received from the cooperative.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the Great Basin marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be

the same as those contained in the order, as hereby proposed to be amended:

1. Delete § 963.6 and substitute therefor the following:

§ 963.6 Great Basin marketing area.

"Great Basin marketing area" hereinafter called the "marketing area" means all territory, including all government reservations and installations and all municipalities, within the counties of Box Elder, Davis, Morgan, Salt Lake, Tooele, Utah, Wasatch, Weber, Summit, Grand, Daggett, Duchesne, Carbon, Sanpete, Juab, Millard, Sevier, Uintah, and Emery in the State of Utah, and the counties of Elko, Eureka, and White Pine in the State of Nevada.

2. Delete § 963.8 and substitute therefor the following:

§ 963.8 Producer-handler.

"Producer-handler" means an individual, or a partnership or cooperation for which written articles of partnership or incorporation are furnished the market administrator, which:

(a) Produces milk and operates an approved plant described in § 963.10(a);

(b) Receives milk only from (1) his own farm production and (2) from pool plants in an amount during the month not in excess of the larger of 3,000 pounds or 5 percent of such person's Class I sales; and

(c) The operation of the milk production, processing, and distributing facilities are under the complete and exclusive control of such person and at his sole risk.

§ 963.11 [Amendment]

3. Delete § 963.11(a) and substitute the following:

(a) An approved plant, except the plant of a producer-handler as described in § 963.8, from which during the month there is disposed of on routes fluid milk products equal to not less than 50 percent in the months of August through March and 40 percent in other months of the receipts during the month at such plant of producer milk, producer milk diverted therefrom by the plant operator and receipts at the plant of fluid milk products from plants described pursuant to paragraph (b) of this section, and there are disposed of on routes in the marketing area fluid milk products equal to not less than 10 percent of the total fluid milk product disposition from the plant on routes: *Provided*, That if a handler operates more than one approved plant, the combined receipts and disposition of any of such plants may be used as the basis for qualifying the respective plants pursuant to the preceding computations specified in this paragraph if the handler in writing so requests the market administrator: *And provided further*, That any approved plant from which the total route disposition of fluid milk products is to individuals or institutions for charitable purposes and is without remuneration from such individuals or institutions shall not qualify as a pool plant pursuant to this paragraph.

§ 963.41 [Amendment]

4. Delete § 963.41(b) (5) and substitute therefor the following:

(5) In shrinkage of skim milk and butterfat, respectively, allocated pursuant to § 963.45(b) (2) not to exceed the following: 2 percent of producer milk (except diverted milk), plus 1½ percent of milk received from pool plants of other handlers in bulk tank lots, plus 1½ percent of milk received from a cooperative association which is the handler for such milk pursuant to § 963.9(c) (except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent), less 1½ percent of milk disposed of in bulk tank lots to pool plants of other handlers (except when the preceding exception hereof applies, the applicable percentage shall be 2 percent).

§ 963.42 [Amendment]

5. Delete § 963.42(c) (4) and substitute therefor the following:

(4) Class I utilization in the nonpool plant does not exceed the receipts of skim milk and butterfat in milk received during the month from dairy farmers who deliver Grade A milk directly from farms to such plant. If Class I utilization exceeds such receipts, the skim milk and butterfat transferred or diverted shall be Class I to the extent of such excess, except that when transfers or diversions are made during the month to such nonpool plant from other plants subject to the classification and pricing provisions of this part or other orders issued pursuant to the Act, the skim milk and butterfat assigned to Class I at the pool plant shall be not less than that obtained by prorating the assignable Class I milk at the transferee plant over all such receipts at such nonpool plant.

§ 963.45 [Amendment]

6. Delete § 963.45(b) and substitute therefor the following:

(b) For each handler prorate the resulting amounts between (1) the pounds of skim milk and butterfat in other source milk received in bulk form as fluid milk products, and (2) the pounds of skim milk and butterfat in other fluid milk products received in bulk form (excluding diverted milk).

7. Delete § 963.80 and substitute therefor the following:

§ 963.80 Time and method of payment for producer milk.

(a) Except as provided in paragraph (b) or (d) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than the Class II price for the preceding month; and

(2) On or before the 17th day of the following month, for producer milk received during the month, at not less than the uniform prices pursuant to § 963.71

adjusted by the butterfat and location differentials to producers, subject to the following adjustments:

(i) Less marketing service deductions made pursuant to § 963.85;

(ii) Less the payment made pursuant to subparagraph (1) of this paragraph;

(iii) Plus or minus adjustments for errors made in previous payments to such producers and proper deductions authorized in writing by such producer; and

(iv) If by the date specified, such handler has not received full payment from the market administrator pursuant to § 963.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association, which is authorized by its members to collect payment for their milk, and which has requested such payment from any handler in writing, such handler shall on or before the second day prior to the dates on which payments are due to individual producers, pay the cooperative association for milk received from the producer-members of such association, amounts equal to not less than the totals of the payments otherwise due such producer-members for milk deliveries during the first 15 days of each month and for the entire month as determined pursuant to paragraph (a) of this section: *Provided*, That the cooperative has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

(c) Each handler who received milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association for each such producer on or before the second day prior to the end of the month, the pounds of milk received during the first 15 days of such month and on or before the 7th day of the following month, as follows:

(1) The total pounds of milk received during the month, including the pounds of base milk and excess milk;

(2) The pounds of milk received each day, together with the butterfat content of such milk;

(3) The amount or rate and nature of any proper deductions authorized to be made from payments; and

(4) The amount and nature of payments due pursuant to § 963.84.

(d) Each handler shall pay a cooperative association for milk received by him from such cooperative association for which the association is the handler as follows:

(1) On or before the second day prior to the end of each month, for milk received during the first 15 days of the month an amount per hundredweight not less than the Class II price for the preceding month; and

(2) On or before the 15th day of the following month for milk received during the month, not less than an amount computed by multiplying the minimum prices for milk in each class subject to the applicable location adjustment provided in § 963.53 and the butterfat differential provided by § 963.52, by the hundredweight of milk in each class pursuant to § 963.44, such amount to be reduced in the amount of the payment made pursuant to subparagraph (1) of this paragraph.

Issued at Washington, D.C., this 21st day of December, 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 60-12007; Filed, Dec. 27, 1960; 8:47 a.m.]

[7 CFR Part 1034]

LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Notice of Rule Making With Respect to Administrative Rules and Regulations

Notice is hereby given that the Secretary of Agriculture is considering the issuance of administrative rules and regulations, as hereinafter set forth, which were recommended by the South Texas Lettuce Committee, established pursuant to Marketing Agreement No. 144 and Marketing Order No. 134 (7 CFR Part 1034; 25 F.R. 12227) regulating the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Consideration will be given to any data, views, or arguments pertaining thereto which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than five days following publication of this notice in the FEDERAL REGISTER. The proposals are as follows:

GENERAL

§ 1034.100 Order.

Order means Order No. 134 (§§ 1034.1 to 1034.92; 25 F.R. 12227) regulating the handling of lettuce grown in the Lower Rio Grande Valley in South Texas.

§ 1034.101 Terms.

The terms used in this subpart shall have the same meaning as when used in the order.

§ 1034.102 Communications.

Unless otherwise provided in the order, or by specific direction of the committee, all reports, applications, submittals, requests and communications in connection with the order shall be addressed to the South Texas Lettuce Committee, at its principal office.

§ 1034.103 Fiscal period.

The initial fiscal period shall begin on the effective date of this part and end on

PROPOSED RULE MAKING

October 31, 1961. Thereafter, each fiscal period shall begin on November 1 of each year and end on October 31 of the following year, both dates inclusive.

§ 1034.104 Registered handler.

For purposes of this part any person who operates as an established lettuce handler within the production area, with commonly accepted adequate facilities for grading and packing lettuce for market and who customarily buys lettuce from producers for packing and marketing, shall be recorded by the committee as a registered handler. Any other person who wishes to be listed as a registered handler may make application for registration on forms furnished by the committee. If such applicant has facilities available to him that are determined by the committee to be adequate for grading and packing lettuce for market, and he assumes responsibility for inspection of lettuce handled by him, and for assessments thereon, he may be approved and recorded as a registered handler. If the committee determines from the available information that the applicant is not entitled to be registered with the committee, he shall be so informed by written notice stating the reason for denial of his application. Any registration of a handler pursuant to this section may be canceled by the committee under circumstances which would have justified denial of his application. Any handler whose registration has been canceled shall be so informed by written notice thereof stating the reason therefor. The committee shall also notify producers of each such cancellation of handler registration through committee bulletins or published notice in local newspapers of general distribution, or both.

ESTIMATES AND ALLOTMENTS

§ 1034.110 Estimates of lettuce for current shipment.

(a) *Administrative policy.* Prior to, or at the beginning, of each lettuce marketing season the committee shall consider whether volume regulations are probable during the ensuing season. If, after consideration of all factors bearing on the marketing of lettuce during the ensuing season, volume regulations are deemed sufficiently probable to warrant preparation therefor, the committee shall so announce to producers, handlers, and the public. Announcements shall indicate the preparatory work necessarily required of lettuce producers and handlers for estimates of lettuce available for current shipment during any ensuing allotment periods. The committee shall specify the dates on which fields or blocks of lettuce shall be recorded with the committee, and the dates on which it will begin estimating lettuce available for current shipment in ensuing allotment periods. The committee shall provide forms for recording fields or blocks of lettuce by producers and handlers and for use in applying for allocation bases and allotments.

(b) *Application for allocation bases and allotments.* Each season, on the date established by the committee for

the initial allotment period and thereafter on the date established for each succeeding allotment period, each person who has lettuce available for current shipment shall submit, at the time, place, and manner prescribed by the committee, and on forms provided by the committee, an application for an allocation base and allotments on specific fields or blocks of lettuce declared by such person as available for current shipment. Applications shall contain information essential to the committee for estimating current supplies available for shipment by the applicant during the allotment periods set forth in the application, and to the extent applicable, shall include the following:

- (1) Name and address of the applicant
- (2) Names and addresses of producers of lettuce included in the application
- (3) Agent or handler
- (4) Proof of ownership or other authority supporting the application
- (5) Identification, location, and description of fields or blocks
- (6) Net acres in the respective fields or blocks
- (7) Harvest period
- (8) Intended harvesting percentage for each week
- (9) Signature of applicant.

§ 1034.111 Apportionment of allotments.

(a) Pursuant to computations made in accordance with § 1034.53(d)(1), the committee shall notify each applicant of (1) his total allotment, (2) the amount thereof based on lettuce produced by the applicant and (3) (if applicable) the amount thereof based on lettuce produced by each of the other producers named in the application.

(b) Each handler with an allotment which is made up in whole or in part of lettuce produced by others shall notify each of the other participating producers, in the manner and at the time prescribed by the committee, of his equitable portion of the allotment.

(c) When handlers are limited by weekly volume regulations, or in the proportion of their weekly allotment which may not be exceeded in any one day, each handler with allotted lettuce owned or controlled by other persons shall equitably apportion such allotment among each of the other persons whose lettuce is included in the estimates on which the allotment is based. In carrying out the equitable apportionment of such weekly allotments, handlers may give consideration to the following factors: (1) Weather conditions, or other similar acts beyond control of the producers or the handler and their effect on the growth, maturity, and harvestability of each producer's lettuce; (2) reasonable management of harvesting and packing operations; (3) practical and economical distribution and assignment of harvesting and packing crews in the mutual interests of producers and handlers; (4) customary management and marketing practices under similar conditions in the absence of regulations, and (5) other factors contributing to mutually satisfactory producer-handler relationships in the marketing of lettuce.

§ 1034.112 Compliance verification.

(a) Each week during allotment periods, the committee shall investigate, or cause to be investigated, each handler's performance in harvesting fields or blocks of lettuce included within their applications and on which allotments have been established. Such checks and investigations shall report (1) compliance with allotments, (2) the extent to which allotments applicable to specific fields have been used, and (3) include fields on which allotments no longer apply. From time to time the committee shall inform handlers of the status of their allotments with respect to specific fields and of the dates on which allotments for specific fields shall terminate.

(b) Upon packaging, selling, or otherwise handling all lettuce allotted for shipment from a specific field, no person shall package or sell lettuce from such field, unless regulations under § 1034.52 (b)(5) are suspended or terminated.

§ 1034.113 Adjustment of allotments.

Allocation bases and allotments may be transferred or adjusted under the conditions set forth below. However, no adjustments or transfers of allotments may be made by the committee in excess of the allocation base and allotment of the respective handler, or which will result in allotments in excess of that specified for any allotment period or any day therein.

(a) When a person with an allocation base and an allotment sells or otherwise disposes of unharvested lettuce included therein to any other person, the allocation base and allotment therefor shall be transferred to such person. Such transfers shall be based on a bona fide contract transferring ownership or control of such lettuce. The committee shall maintain a record of all such transfers.

(b) (1) Any person with an allocation base and an allotment may request the committee, within such time as may be prescribed by the committee, for a reappraisal of his fields and the estimates of his available lettuce supplies to determine whether changes due to weather, maturity, harvestability, quality, or condition of the lettuce warrant an adjustment of his allotment. Upon investigation and report thereon, the committee shall determine the action to be taken on the request. In addition to other findings that may be made, such report shall indicate changes, if any, in harvesting percentages or yields that may properly be made in such applicant's estimates of supplies for current shipment.

(2) When the committee receives reports, properly verified by its staff, that lettuce in an applicant's allotment will not be used, such allotment shall be adjusted accordingly. The allotment thus released shall be made available equitably by the committee to other applicants who have requested an increase in their allotment.

(c) The committee shall maintain daily and weekly records setting forth a full disclosure of all transfers and adjustments of allocation bases and

allotments. Reports thereon may be requested by the Secretary at any time.

§ 1034.114 Reports.

(a) During any allotment period, each handler shall report, or cause to be reported, the amount of lettuce packaged or otherwise handled by him from fields or blocks of lettuce on which his allotments were based or from any other source. Such reports may be provided by cooling plants or other commonly accepted sources from which such information is available.

(b) Persons selling or transporting lettuce for export to Mexico may be required to report all handling thereof, with identification of amounts of lettuce, date, vehicle, and fields from which such lettuce was harvested.

SAFEGUARDS

§ 1034.120 Policy.

Whenever shipments of lettuce for special purposes pursuant to § 1034.54 are relieved in whole or in part from regulations issued under §§ 1034.52 and 1034.53, the committee may require information and evidence on the manner, methods, and timing of such shipments as safeguards against the entry of any such lettuce in trade channels other than those for which intended. Such information and evidence shall include requirements set forth below with respect to Certificates of Privilege.

§ 1034.121 Qualification.

Before handling lettuce for special purposes which do not meet regulations issued pursuant to §§ 1034.52 and 1034.53, a handler, when required by such regulations, must qualify with the committee to handle shipments for special purposes. To qualify he must (a) apply for and receive a Certificate of Privilege indicating his intent to so handle lettuce, (b) agree to comply with reporting and other requirements set forth in §§ 1034.120 to 1034.125, inclusive, with respect to such shipments, and (c) receive approval of the committee, or its duly authorized agents, to so handle lettuce. Such approval will be based upon evidence furnished in his application for Certificate of Privilege and other information available to the committee.

§ 1034.122 Application.

(a) Applications for a Certificate of Privilege shall be made on forms furnished by the committee. Each application may contain, but need not be limited to, the name and address of the handler; the quantity by grade, size, and quality of the lettuce to be shipped; the mode of transportation; the consignee; the destination; the purpose for which the lettuce is to be used; and certification to the United States Department of Agriculture and to the committee as to the truthfulness of the information shown thereon, and any other appropriate information or documents deemed necessary by the committee or its duly authorized agents for the purposes stated in § 1034.120.

(b) The committee may require each handler making shipments of lettuce for export to include with his application a

copy of the Department of Commerce Shippers Export Declaration Form No. 7525-V applicable to such shipment.

§ 1034.123 Approval.

The committee or its duly authorized agents shall give prompt consideration to each application for a Certificate of Privilege. Approval of an application, based upon the determination as to whether the information contained therein and other information available to the committee supports approval, shall be evidenced by the issuance of a Certificate of Privilege to the applicant. Each certificate shall cover a specified period and specified quantities and quantities of lettuce to be sold or transported to a designated consignee for the purposes declared.

§ 1034.124 Reports.

Each handler of lettuce shipping under Certificates of Privilege shall supply the committee with reports as requested by the committee, or its duly authorized agents, showing the name and address of the shipper; the car or truck identification; the loading point, destination; consignee; the inspection certificate number when inspection is required; and any other information deemed necessary by the committee.

§ 1034.125 Disqualification.

The committee from time to time may conduct surveys of handling of lettuce for special purposes requiring Certificates of Privilege to determine whether handlers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that the handler or consignee is failing to comply with requirements and regulations applicable to handling of lettuce in special outlets and requiring such certificates, a Certificate or Certificates of Privilege issued such handler may be rescinded and subsequent certificates denied. Such disqualification shall apply to, and not exceed, a reasonable period of time as determined by the committee, but in no event shall it extend beyond the date of the succeeding fiscal period. Any handler who has a Certificate rescinded or denied may appeal to the committee in writing for reconsideration of his disqualification.

Dated: December 22, 1960.

FLOYD F. HEDLUND,
Acting Director,
Fruit and Vegetable Division.

[F.R. Doc. 60-12008; Filed, Dec. 27, 1960;
8:47 a.m.]

[7 CFR Part 1034]

LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Expenses and Rate of Assessment

Notice is hereby given that the Secretary of Agriculture is considering the approval of the expenses and rate of assessment hereinafter set forth, which were recommended by the South Texas Lettuce Committee, established pursuant to Marketing Agreement No. 144 and

Marketing Order No. 134 (7 CFR Part 1034; 25 F.R. 12227).

Said marketing order regulates the handling of lettuce grown in the Lower Rio Grande Valley in South Texas, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Consideration will be given to any data, views, or arguments pertaining thereto which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 10 days following publication of this notice in the FEDERAL REGISTER.

§ 1034.201 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the South Texas Lettuce Committee, established pursuant to Marketing Agreement No. 144, and this part, to enable such committee to perform its functions pursuant to the provisions of the aforesaid marketing agreement and order during the fiscal period December 1, 1960, through October 31, 1961, will amount to \$40,000.

(b) The rate of assessment to be paid by each handler pursuant to Marketing Agreement No. 144 and this part shall be two cents (\$0.02) per carton of lettuce handled by him as the first handler thereof during said fiscal period.

(c) All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 144 and this part (Part 1034; 25 F.R. 12227).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 21, 1960.

FLOYD F. HEDLUND,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 60-12037; Filed, Dec. 27, 1960;
8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), the following notice is issued:

A petition has been filed by Niagara Chemical Division, Food Machinery and Chemical Corporation, Middleport, New York, proposing the establishment of tolerances of 2 parts per million for residues of 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-6,9-methano-2,4,3-benzodioxathiepin-3-oxide in or on apples, apricots, artichokes, eggplants, grapes,

nectarines, peaches, pears, peppers, and tomatoes.

The analytical methods proposed in the petition for determining residues of 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-6,9-methano-2,4,3-benzodioxathiepin-3-oxide are the methods published in the *FEDERAL REGISTER* of March 18, 1960 (25 F.R. 2269), and a modification of the gas chromatographic-microcoulometric procedure of Coulson, et al., published in the *Journal of Agricultural and Food Chemistry*, Volume 8, page 399 (1960).

Dated: December 21, 1960.

[SEAL] J. K. KIRK,
Assistant to the Commissioner
of Food and Drugs.

[F.R. Doc. 60-12016; Filed, Dec. 27, 1960;
8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), notice is given that a petition has been filed by the Kellogg Company, Battle Creek, Michigan, proposing the issuance of a regulation to establish a total tolerance in breakfast cereals of 50 parts per million (0.005 percent) of antioxidants consisting of one or a combination of butylated hydroxyanisole, butylated hydroxytoluene, and propyl gallate.

Dated: December 21, 1960.

[SEAL] J. K. KIRK,
Assistant to the Commissioner
of Food and Drugs.

[F.R. Doc. 60-12017; Filed, Dec. 27, 1960;
8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), notice is given that a petition has been filed by Food Technology, Incorporated, 5903 Northwest Highway, Chicago 31, Illinois, proposing the issuance of a regulation permitting the use as an emulsifier in food of hydroxylated lecithin manufactured by reacting lecithin with hydrogen peroxide and acetic acid.

Dated: December 21, 1960.

[SEAL] J. K. KIRK,
Assistant to the Commissioner
of Food and Drugs.

[F.R. Doc. 60-12018; Filed, Dec. 27, 1960;
8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec.

409(b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), notice is given that a petition has been filed by National Starch and Chemical Corporation, 1700 West Front Street, Plainfield, New Jersey, proposing the issuance of a regulation to permit the safe use of polyvinylidene chloride latex in coatings for food packaging.

Dated: December 21, 1960.

[SEAL] J. K. KIRK,
Assistant to the Commissioner
of Food and Drugs.

[F.R. Doc. 60-12019; Filed, Dec. 27, 1960;
8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), notice is given that a petition has been filed by Dow Chemical Company, Midland, Michigan, proposing the issuance of a regulation to establish a tolerance of 20 parts per million (0.002 percent) of sodium-2,2-dichloropropionate in or on dried citrus pulp for cattle feed.

Dated: December 21, 1960.

[SEAL] J. K. KIRK,
Assistant to the Commissioner
of Food and Drugs.

[F.R. Doc. 60-12020; Filed, Dec. 27, 1960;
8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), notice is given that a petition has been filed by Interchemical Corporation, Post Office Box 659, Newark, New Jersey, proposing the issuance of a regulation to permit the safe use of sodium lauryl sulfate in coatings for food packaging.

Dated: December 21, 1960.

[SEAL] J. K. KIRK,
Assistant to the Commissioner
of Food and Drugs.

[F.R. Doc. 60-12021; Filed, Dec. 27, 1960;
8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 13852 (RM-102 and RM-183)]

TABLE OF ASSIGNMENTS; TELEVISION BROADCAST STATIONS

Order Extending Time for Filing Comments

In the matter of amendment of § 3.606
Table of assignments, Television Broad-

cast Stations (Augusta, Bangor, Calais and Presque Isle, Maine).

1. The Commission has before it a petition of Coastal Broadcasting Company, Inc., licensee of standard broadcast station WDEA, Ellsworth, Maine, requesting that the time for filing comments in the above-captioned proceeding be extended for original comments from December 23, 1960, to January 20, 1961, and for reply comments from January 9, 1961, to February 3, 1961.

2. The petitioner states that the additional time requested is needed for it to complete preparation of comments in this proceeding; that in connection therewith, it is making a detailed study of the need for television service in southeastern Maine, and intends to submit a counterproposal in the proceeding, and to comply fully with the Commission's request in the notice for "the most specific and detailed information possible" concerning plans and preparation for the use of the channel proposed for reassignment. Petitioner urges that the Commission and all parties interested in the proceeding will benefit if more time is afforded to permit all parties to make the most complete showing possible in their comments.

3. The Commission is of the view that the public interest will be served by affording the additional time requested for filing comments, and that, in view of the approaching Christmas and New Year holidays, it will not unduly delay the proceeding.

4. Accordingly, it is ordered, This 20th day of December 1960, That the above-mentioned request of Coastal Broadcasting Company, Inc., is granted; that the time for filing comments in this proceeding is extended from December 23, 1960, to January 20, 1961, and that the time for filing reply comments is extended from January 9, 1961, to February 3, 1961.

Released: December 22, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-12029; Filed, Dec. 27, 1960;
8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 71-78, 197]

[Docket No. 3666¹]

TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES BY MOTOR VEHICLE

Extending Date for Filing Statements

Upon consideration of the record in the above-entitled proceeding, and re-

¹This order embraces Ex Parte No. MC-18, In the Matter of Regulations Governing the Transportation of Explosives and Other Dangerous Articles by Motor Vehicle, and Ex Parte No. MC-3, In the Matter of Need for Establishing Reasonable Requirements to Promote Safety of Operation of Motor Vehicles Used in Transporting Property by Private Carriers.

quests received from the following for an extension of time within which to file written statements in response to rule making notice 46 dated November 29, 1960:

(1) Institute of Makers of Explosives, dated December 13, 1960.

(2) Manufacturing Chemists' Association, Inc., filed December 14, 1960.

(3) American Petroleum Institute, filed December 15, 1960.

(4) National Paint, Varnish and Lacquer Association, filed December 15, 1960.

and good cause appearing therefor;

It is ordered, That the time within which written statements may be filed pertaining to the proposals contained in rule making notice 46 be and it is hereby extended from December 15, 1960, to January 16, 1961.

Dated at Washington, D.C., this 15th day of December A.D., 1960.

By the Commission, Commissioner Hutchinson.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 60-12034; Filed, Dec. 27, 1960;
8:50 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Office of the Secretary

LEMORE W. CLARK

Appointee's Statement of Financial Interests

NOVEMBER 22, 1960.

Pursuant to section 302(a) of Executive Order 10647, the following information on a WOC appointee in the Department of the Interior is furnished for publication in the FEDERAL REGISTER:

Name of appointee: Lemore W. Clark.

Name of employing agency: Department of the Interior, Office of Assistant Secretary for Water and Power Development.

The title of the appointee's position: Deputy Director, Defense Electric Power Area 6.

The name of the appointee's private employer or employers: The Detroit Edison Co., Detroit, Mich.

The statement of "financial interests" is set forth below.

FRED G. AANDAH, L.

Acting Secretary of the Interior.

Appointee's Statement of Financial Interests

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on November 22, 1960, as Deputy Director, Defense Electric Power Area 6, an officer or director:

None.

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Curtiss Wright Corp., New York, N.Y.
The Detroit Edison Co., Detroit, Mich.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

None.

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

None.

LEMORE W. CLARK.

DECEMBER 16, 1960.

[F.R. Doc. 60-12011; Filed, Dec. 27, 1960; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

CERTAIN HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904) and the statement of policy thereunder in 9

CFR 181.1 (25 F.R. 5863) the following table lists the establishments operated under Federal inspection under the Meat Inspection Act (21 U.S.C. 71 et seq.) which were officially reported on December 1, 1960, as humanely slaughtering and handling on that date the species of livestock respectively designated for such establishments in the table. Establishments reported after December 1, as using humane methods on December 1, or a later date in December will be listed in a supplemental list. Previously published lists represented establishments reported in November or December 1960 as humanely slaughtering and handling

the designated species of livestock on November 1 or some later date in November 1960 (25 F.R. 12257 and 12579). The establishment number given with the name of the establishment is branded on each carcass of livestock inspected at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all species are listed for that establishment in the table. Nor should the table be understood to indicate that the affiliates of any listed establishment use only humane methods:

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Gus Juengling and Son, Inc.	298	(*)					
Waldock Packing Co.	299					(*)	
Star Packing Co.	306						
Greater New York Packing Co., Inc.	317A					(*)	
Stadler Packing Co., Inc.	320						
Frisco Packing Co.	327						
C and M Meat Packing Corp.	329		(*)				
Royal Packing Co.	331						
Sokolik Packing Co.	331A						
Shapiro Packing Co., Inc.	332						
Nobles Independent Meat Co.	335						
Anza Packing Co.	345			(*)			
Union Packing Co.	351						
McCandless Packing Co., Inc.	355		(*)				
Hell Packing Co.	357					(*)	
Meyers Packing Co.	363						
Westport Packing Corp.	369						
The John Hilberg and Sons Co.	375						
Cross Bros. Meat Packers, Inc.	378			(*)			
Emgo Packing Co., Inc.	380					(*)	
American Stores Co.	384						
Oldhams Farm Sausage Co., Inc.	392					(*)	
Roth Packing Co.	394						
The Northside Packing Co.	395						
Logan Packing Co.	397		(*)				
Ceebee Packing Co.	404			(*)			
Nenhoff Bros.	406					(*)	
Philadelphia Boneless Beef Co.	418						
Murray Packing Co., Inc.	421						
The Collins Packing Co.	423					(*)	
Lone Star Packing Co.	433						
Monarch Meat Packing Co.	435		(*)				
Schneider Packing Co.	439						
Prime Packing Co., Inc.	443						
Peerless Packing Co., Inc.	448						
Swift and Co.	459					(*)	
Lancaster Packing Co.	462						
Litvak Packing Co.	465						
Becwar Packing Co.	467						
Eckert Packing Co.	471					(*)	
Armour and Co.	477						
Eldridge Packing Co.	478			(*)			
Middletown Beef Co., Inc.	485						
Memphis Butchers Association, Inc.	488				(*)	(*)	
Nebraska Beef Co.	489						
Triangle Meat Distributors, Inc.	497						
Heim Brothers Packing Co.	499					(*)	
Greenlee Packing Co.	501						
B. Rothschild and Co.	506						
Frosty Morn Meats	507						
Gruensfelder Packing Co.	508						
Armour and Co.	509			(*)			
Shen Valley Meat Packers, Inc.	511					(*)	
Armour and Co.	2AG						
Do.	2AU						
Do.	2B			(*)			
Do.	2C						
Do.	2E						
Swift and Co.	3A						
Do.	3AC						
Do.	3AE						
Do.	3AF						
Do.	3AN						
Do.	3B						
Do.	3C						
Do.	3L						
Do.	3NN						
Do.	3Z						
Lykes Bros., Inc., of Georgia	8					(*)	
The Cudahy Packing Co.	10						
Hygrade Food Products Corp.	12						
Do.	12A						
Do.	12D						
Do.	12P						
Mickelberry's Food Products Co.	16						
John Morrell and Co.	17						
C. Finkbeiner, Inc.	18						
The Cudahy Packing Co. of Nebraska	19E						
Wilson and Co., Inc.	20A						
Do.	20N						
Do.	20Q						
Swift and Co.	23						
American Packing Co.	26						
Patrick Cudahy, Inc.	28						
Montana Packing Co., Inc.	37						
Pocomoke Provision Co.	39						
Sunnyland Packing Co.	43						

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Stark Wetzel and Co. Do.	44	(C)					
Idaho Meat Packers Consolidated Dressed Beef Co., Inc.	44A						
Sumner Packing Co. of Alabama	46	(C)	(C)	(C)		(C)	
Glenn Packing Co. of Amarillo	47	(C)	(C)	(C)		(C)	
Welland Packing Co., Inc.	48	(C)	(C)	(C)		(C)	
Empire Packing Co., Inc.	49	(C)	(C)	(C)		(C)	
Somerville Packing Co.	50	(C)	(C)	(C)		(C)	
The Quaker Oats Co.	51	(C)	(C)	(C)		(C)	
Eastern Packing Co.	52	(C)	(C)	(C)		(C)	
Armour and Co.	53	(C)	(C)	(C)		(C)	
The Braun Brothers Packing Co.	54	(C)	(C)	(C)		(C)	
The Cudahy Packing Co.	55	(C)	(C)	(C)		(C)	
Hill Packing Co.	56	(C)	(C)	(C)		(C)	
The E. Kahns Sons Co.	57	(C)	(C)	(C)		(C)	
Hygrade Food Products Corp.	58	(C)	(C)	(C)		(C)	
Sugarale Provision Co.	59	(C)	(C)	(C)		(C)	
Shonyo Packing Co.	60	(C)	(C)	(C)		(C)	
The P. Brennan Co.	61	(C)	(C)	(C)		(C)	
The Val Decker Packing Co.	62	(C)	(C)	(C)		(C)	
Wm. G. Rehms Sons	63	(C)	(C)	(C)		(C)	
A. Koehs Sons	64	(C)	(C)	(C)		(C)	
Liberty Packing Co.	65	(C)	(C)	(C)		(C)	
H. Graver Co.	66	(C)	(C)	(C)		(C)	
J. Lynn Cornwell, Inc.	67	(C)	(C)	(C)		(C)	
Aurora Packing Co., Inc.	68	(C)	(C)	(C)		(C)	
Wilson and Co., Inc.	69	(C)	(C)	(C)		(C)	
Hoffman Packing Co., Inc.	70	(C)	(C)	(C)		(C)	
Morris Packing Co.	71	(C)	(C)	(C)		(C)	
Marboeler Packing Co., Inc.	72	(C)	(C)	(C)		(C)	
E. J. Archie and Sons, Inc.	73	(C)	(C)	(C)		(C)	
John Roth and Son, Inc.	74	(C)	(C)	(C)		(C)	
Edward J. Kluener, Inc.	75	(C)	(C)	(C)		(C)	
R. B. Rice Sausage Co., Inc.	76	(C)	(C)	(C)		(C)	
Kansas City Dressed Beef Co.	77	(C)	(C)	(C)		(C)	
Swift and Co.	78	(C)	(C)	(C)		(C)	
Peerless Packing Co.	79	(C)	(C)	(C)		(C)	
Swift and Co.	80	(C)	(C)	(C)		(C)	
The Rath Packing Co.	81	(C)	(C)	(C)		(C)	
Seaside Packing Co.	82	(C)	(C)	(C)		(C)	
Krey Packing Co.	83	(C)	(C)	(C)		(C)	
United A. H. and Co.	84	(C)	(C)	(C)		(C)	
The Cudahy Packing Co.	85	(C)	(C)	(C)		(C)	
Empire Packing Co., Inc.	86	(C)	(C)	(C)		(C)	
Central Packing Co., Inc.	87	(C)	(C)	(C)		(C)	
Holmz Riverside Abattoir, Inc.	88	(C)	(C)	(C)		(C)	
S. Adams Packing Co.	89	(C)	(C)	(C)		(C)	
Penn Packing Co.	90	(C)	(C)	(C)		(C)	
Kneip Packing Co.	91	(C)	(C)	(C)		(C)	
Armour and Co.	92	(C)	(C)	(C)		(C)	
Hygrade Food Products Corp.	93	(C)	(C)	(C)		(C)	
Do.	94	(C)	(C)	(C)		(C)	
Gold Meritt Packing Co., Inc.	95	(C)	(C)	(C)		(C)	
Raskin Packing Co.	96	(C)	(C)	(C)		(C)	
Armour and Co.	97	(C)	(C)	(C)		(C)	
P. D. and J. Meats	98	(C)	(C)	(C)		(C)	
Greenwood Packing Plant	99	(C)	(C)	(C)		(C)	
John Morrell and Co.	100	(C)	(C)	(C)		(C)	
The Danahy Packing Co.	101	(C)	(C)	(C)		(C)	
Swift and Co.	102	(C)	(C)	(C)		(C)	
Suber Edwards and Co.	103	(C)	(C)	(C)		(C)	
The Jones Dairy Farm	104	(C)	(C)	(C)		(C)	
System Meat Co.	105	(C)	(C)	(C)		(C)	
Houston Packing Co.	106	(C)	(C)	(C)		(C)	
Wilson and Co., Inc.	107	(C)	(C)	(C)		(C)	
American Stores Co.	108	(C)	(C)	(C)		(C)	
Agar Packing Co., Inc.	109	(C)	(C)	(C)		(C)	
Fligge and Hutweller Co., Inc.	110	(C)	(C)	(C)		(C)	
Stout City Dressed Pork, Inc.	111	(C)	(C)	(C)		(C)	
Capitol Packing Co.	112	(C)	(C)	(C)		(C)	
Pearl Packing Co., Inc.	113	(C)	(C)	(C)		(C)	
Smallwood Packing Co., Inc.	114	(C)	(C)	(C)		(C)	
Omaha Packing Co.	115	(C)	(C)	(C)		(C)	
Pepper Packing Co.	116	(C)	(C)	(C)		(C)	
Oscar Mayer and Co., Inc.	117	(C)	(C)	(C)		(C)	
Do.	118	(C)	(C)	(C)		(C)	
Greendell Packing Corp.	119	(C)	(C)	(C)		(C)	
United Dressed Meats, Inc.	120	(C)	(C)	(C)		(C)	
Mid South Packers, Inc.	121	(C)	(C)	(C)		(C)	
John Morrell and Co.	122	(C)	(C)	(C)		(C)	
Perretta Packing Co., Inc.	123	(C)	(C)	(C)		(C)	
Armour and Co.	124	(C)	(C)	(C)		(C)	
Do.	125	(C)	(C)	(C)		(C)	
Gold Meritt Packing Co., Inc.	126	(C)	(C)	(C)		(C)	
Raskin Packing Co.	127	(C)	(C)	(C)		(C)	
Armour and Co.	128	(C)	(C)	(C)		(C)	
P. D. and J. Meats	129	(C)	(C)	(C)		(C)	
Greenwood Packing Plant	130	(C)	(C)	(C)		(C)	
John Morrell and Co.	131	(C)	(C)	(C)		(C)	
The Danahy Packing Co.	132	(C)	(C)	(C)		(C)	
Swift and Co.	133	(C)	(C)	(C)		(C)	
Suber Edwards and Co.	134	(C)	(C)	(C)		(C)	
The Jones Dairy Farm	135	(C)	(C)	(C)		(C)	
System Meat Co.	136	(C)	(C)	(C)		(C)	
Houston Packing Co.	137	(C)	(C)	(C)		(C)	
Wilson and Co., Inc.	138	(C)	(C)	(C)		(C)	
American Stores Co.	139	(C)	(C)	(C)		(C)	
Agar Packing Co., Inc.	140	(C)	(C)	(C)		(C)	
Fligge and Hutweller Co., Inc.	141	(C)	(C)	(C)		(C)	
Stout City Dressed Pork, Inc.	142	(C)	(C)	(C)		(C)	
Capitol Packing Co.	143	(C)	(C)	(C)		(C)	
Pearl Packing Co., Inc.	144	(C)	(C)	(C)		(C)	
Smallwood Packing Co., Inc.	145	(C)	(C)	(C)		(C)	
Omaha Packing Co.	146	(C)	(C)	(C)		(C)	
Pepper Packing Co.	147	(C)	(C)	(C)		(C)	
Oscar Mayer and Co., Inc.	148	(C)	(C)	(C)		(C)	
Do.	149	(C)	(C)	(C)		(C)	
Greendell Packing Corp.	150	(C)	(C)	(C)		(C)	
United Dressed Meats, Inc.	151	(C)	(C)	(C)		(C)	
Mid South Packers, Inc.	152	(C)	(C)	(C)		(C)	
John Morrell and Co.	153	(C)	(C)	(C)		(C)	
Perretta Packing Co., Inc.	154	(C)	(C)	(C)		(C)	
Armour and Co.	155	(C)	(C)	(C)		(C)	
Do.	156	(C)	(C)	(C)		(C)	
Gold Meritt Packing Co., Inc.	157	(C)	(C)	(C)		(C)	
Raskin Packing Co.	158	(C)	(C)	(C)		(C)	
Armour and Co.	159	(C)	(C)	(C)		(C)	
P. D. and J. Meats	160	(C)	(C)	(C)		(C)	
Greenwood Packing Plant	161	(C)	(C)	(C)		(C)	
John Morrell and Co.	162	(C)	(C)	(C)		(C)	
The Danahy Packing Co.	163	(C)	(C)	(C)		(C)	
Swift and Co.	164	(C)	(C)	(C)		(C)	
Suber Edwards and Co.	165	(C)	(C)	(C)		(C)	
The Jones Dairy Farm	166	(C)	(C)	(C)		(C)	
System Meat Co.	167	(C)	(C)	(C)		(C)	
Houston Packing Co.	168	(C)	(C)	(C)		(C)	
Wilson and Co., Inc.	169	(C)	(C)	(C)		(C)	
American Stores Co.	170	(C)	(C)	(C)		(C)	
Agar Packing Co., Inc.	171	(C)	(C)	(C)		(C)	
Fligge and Hutweller Co., Inc.	172	(C)	(C)	(C)		(C)	
Stout City Dressed Pork, Inc.	173	(C)	(C)	(C)		(C)	
Capitol Packing Co.	174	(C)	(C)	(C)		(C)	
Pearl Packing Co., Inc.	175	(C)	(C)	(C)		(C)	
Smallwood Packing Co., Inc.	176	(C)	(C)	(C)		(C)	
Omaha Packing Co.	177	(C)	(C)	(C)		(C)	
Pepper Packing Co.	178	(C)	(C)	(C)		(C)	
Oscar Mayer and Co., Inc.	179	(C)	(C)	(C)		(C)	
Do.	180	(C)	(C)	(C)		(C)	
Greendell Packing Corp.	181	(C)	(C)	(C)		(C)	
United Dressed Meats, Inc.	182	(C)	(C)	(C)		(C)	
Mid South Packers, Inc.	183	(C)	(C)	(C)		(C)	
John Morrell and Co.	184	(C)	(C)	(C)		(C)	
Perretta Packing Co., Inc.	185	(C)	(C)	(C)		(C)	
Armour and Co.	186	(C)	(C)	(C)		(C)	
Do.	187	(C)	(C)	(C)		(C)	
Gold Meritt Packing Co., Inc.	188	(C)	(C)	(C)		(C)	
Raskin Packing Co.	189	(C)	(C)	(C)		(C)	
Armour and Co.	190	(C)	(C)	(C)		(C)	
P. D. and J. Meats	191	(C)	(C)	(C)		(C)	
Greenwood Packing Plant	192	(C)	(C)	(C)		(C)	
John Morrell and Co.	193	(C)	(C)	(C)		(C)	
The Danahy Packing Co.	194	(C)	(C)	(C)		(C)	
Swift and Co.	195	(C)	(C)	(C)		(C)	
Suber Edwards and Co.	196	(C)	(C)	(C)		(C)	
The Jones Dairy Farm	197	(C)	(C)	(C)		(C)	
System Meat Co.	198	(C)	(C)	(C)		(C)	
Houston Packing Co.	199	(C)	(C)	(C)		(C)	
Wilson and Co., Inc.	200	(C)	(C)	(C)		(C)	
American Stores Co.	201	(C)	(C)	(C)		(C)	
Agar Packing Co., Inc.	202	(C)	(C)	(C)		(C)	
Fligge and Hutweller Co., Inc.	203	(C)	(C)	(C)		(C)	
Stout City Dressed Pork, Inc.	204	(C)	(C)	(C)		(C)	
Capitol Packing Co.	205	(C)	(C)	(C)		(C)	
Pearl Packing Co., Inc.	206	(C)	(C)	(C)		(C)	
Smallwood Packing Co., Inc.	207	(C)	(C)	(C)		(C)	
Omaha Packing Co.	208	(C)	(C)	(C)		(C)	
Pepper Packing Co.	209	(C)	(C)	(C)		(C)	
Oscar Mayer and Co., Inc.	210	(C)	(C)	(C)		(C)	
Do.	211	(C)	(C)	(C)		(C)	
Greendell Packing Corp.	212	(C)	(C)	(C)		(C)	
United Dressed Meats, Inc.	213	(C)	(C)	(C)		(C)	
Mid South Packers, Inc.	214	(C)	(C)	(C)		(C)	
John Morrell and Co.	215	(C)	(C)	(C)		(C)	
Perretta Packing Co., Inc.	216	(C)	(C)	(C)		(C)	
Armour and Co.	217	(C)	(C)	(C)		(C)	
Do.	218	(C)	(C)	(C)		(C)	
Gold Meritt Packing Co., Inc.	219	(C)	(C)	(C)		(C)	
Raskin Packing Co.	220	(C)	(C)	(C)		(C)	
Armour and Co.	221	(C)	(C)	(C)		(C)	
P. D. and J. Meats	222	(C)	(C)	(C)		(C)	
Greenwood Packing Plant	223	(C)	(C)	(C)		(C)	
John Morrell and Co.	224	(C)	(C)	(C)		(C)	
The Danahy Packing Co.	225	(C)	(C)	(C)		(C)	
Swift and Co.	226	(C)	(C)	(C)		(C)	
Suber Edwards and Co.	227	(C)	(C)	(C)		(C)	
The Jones Dairy Farm	228	(C)	(C)	(C)		(C)	
System Meat Co.	229	(C)	(C)	(C)		(C)	
Houston Packing Co.	230	(C)	(C)	(C)		(C)	
Wilson and Co., Inc.	231	(C)	(C)	(C)		(C)	
American Stores Co.	232	(C)	(C)	(C)		(C)	
Agar Packing Co., Inc.	233	(C)	(C)	(C)		(C)	
Fligge and Hutweller Co., Inc.	234	(C)	(C)	(C)		(C)	
Stout City Dressed Pork, Inc.	235	(C)	(C)	(C)		(C)	
Capitol Packing Co.	236	(C)	(C)	(C)		(C)	
Pearl Packing Co., Inc.	237	(C)	(C)	(C)		(C)	
Smallwood Packing Co., Inc.	238	(C)	(C)	(C)		(C)	
Omaha Packing Co.	239	(C)	(C)	(C)		(C)	
Pepper Packing Co.	240	(C)	(C)	(C)		(C)	
Oscar Mayer and Co., Inc.	241	(C)	(C)	(C)		(C)	
Do.	242	(C)	(C)	(C)		(C)	
Greendell Packing Corp.	243	(C)	(C)	(C)		(C)	
United Dressed Meats, Inc.	244	(C)	(C)	(C)		(C)	
Mid South Packers, Inc.	245	(C)	(C)	(C)		(C)	
John Morrell and Co.	246	(C)	(C)	(C)		(C)	
Perretta Packing Co., Inc.	247	(C)	(C)	(C)		(C)	
Armour and Co.	248	(C)	(C)	(C)		(C)	
Do.	249	(C)	(C)	(C)		(C)	
Gold Meritt Packing Co., Inc.	250	(C)	(C)	(C)		(C)	
Raskin Packing Co.	251	(C)	(C)	(C)		(C)	
Armour and Co.	252	(C)	(C)	(C)		(C)	
P. D. and J. Meats	253	(C)	(C)	(C)		(C)	
Greenwood Packing Plant	254	(C)	(C)	(C)		(C)	
John Morrell and Co.	255	(C)	(C)	(C)		(C)	
The Danahy Packing Co.	256	(C)	(C)	(C)		(C)	
Swift and Co.	257	(C)	(C)	(C)		(C)	
Suber Edwards and Co.	258	(C)	(C)	(C)		(C)	
The Jones Dairy Farm	259	(C)	(C)	(C)		(C)	
System Meat Co.	260	(C)	(C)	(C)		(C)	
Houston Packing Co.	261	(C)	(C)	(C)		(C)	
Wilson and Co., Inc.	262	(C)	(C)	(C)			

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Hoosier Veterinary Laboratories, Inc.	912					(*)	
National Meat Packers, Inc.	917	(*)	(*)				
South Philadelphia Willowbrook, Inc.	923	(*)	(*)				
Kerber Packing Co.	929	(*)	(*)				
Tarpoft Packing Co.	931	(*)					
McKenney Meat Co.	932	(*)	(*)				
Volz Packing Co.	938	(*)					
Wilson and Co., Inc.	940	(*)	(*)			(*)	
Joe Doctorman and Son Packing Co., Inc.	949	(*)	(*)	(*)			
Greater Omaha Packing Co., Inc.	960	(*)					
Greeley Capitol Packing Co.	969	(*)		(*)			
Hawaii Meat Co., Ltd.	970	(*)	(*)	(*)			
Perlin Packing Co., Inc.	974	(*)	(*)	(*)	(*)		
National Food Stores, Inc.	981	(*)					
Reitz Meat Products Co.	983					(*)	
Eagle Packing Co.	987	(*)					
Clover Packing Co., Inc.	1005	(*)	(*)				
Armour and Co.	1085	(*)	(*)				
Browns Packing House	1154	(*)				(*)	
The Harris Packing Co.	1175						
A. F. Moyer and Sons, Inc.	1311	(*)	(*)				
McCabe Packing Plant	1312	(*)	(*)	(*)			
H. and H. Packing Co.	1315	(*)	(*)				

Done at Washington, D.C., this 22d day of December 1960.

C. H. PALS,
Director, Meat Inspection Division,
Agricultural Research Service.

[F.R. Doc. 60-12038; Filed, Dec. 27, 1960;
8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

STATEMENT OF ORGANIZATION AND DELEGATION OF AUTHORITY

Department of Claims Officer

The Statement of Organization and Delegations of Authority of the Department of Health, Education, and Welfare (22 F.R. 1045) is hereby amended:

Subsection (a) (5) of section 2-300.40 of Part 2 is revised to read as follows:

SEC. 2-300.40 *Department Claims Officer.* (a) ***

(5) Designate a person to act for him during periods of temporary absence from his office. Effective December 19, 1960, during a vacancy in the position of Associate General Counsel, the Chief, Administrative Services Branch, Office of General Counsel, shall exercise the functions of the Department Claims Officer.

Dated: December 16, 1960.

[SEAL] BERTHA S. ADKINS,
Acting Secretary.

[F.R. Doc. 60-12001; Filed, Dec. 27, 1960;
8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 11278 etc.; Order No. E-16162]

NEW YORK-SAN JUAN CARGO RATES INVESTIGATION

Supplemental Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of December 1960.

In the matter of the New York-San Juan cargo rates investigation, Docket 11278 et al.

In the matter of the proposed specific commodity rates of Riddle Airlines, Inc., Pan American World Airways, Inc.; complaints of Trans Caribbean Airways, Inc., Pan American World Airways, Inc., Allied Air Freight International Corp., Dockets 11790, 11796, and 11797.

The Board, by Order E-15851 of September 29, 1960, instituted an investigation of and suspended reduced specific commodity rates between New York and Puerto Rico proposed by Pan American World Airways, Inc., and Riddle Airlines, Inc.

The Board finds that the suspension period of the proposed rates will expire before the investigation of their lawfulness can be concluded and final order made.

Accordingly, it is ordered that:

1. The suspension period of the rates and provisions from Arecibo, Mayaguez, Ponce Ramey Field, and San Juan, P.R., to New York, N.Y., for Commodity Group Nos. 20, 30, and 210 and from New York, N.Y. to Arecibo, Mayaguez, Ponce Ramey Field, and San Juan, P.R. for Commodity Group Nos. 30 and 60 on 16th Revised Page 10 to C.A.B. No. 7 of Riddle Airlines, Inc.; and the rates and provisions from New York, N.Y., to San Juan, P.R., in Item Numbers 1226, 1400, 1500, 2199, 2500Z, 3965, 4702, 6802, 9540, 9700, and 9994, and from San Juan, P.R. to New York, N.Y. in Item Numbers 115, 116, 2990, 4401, 4702, 5000, 9540, and 9994 appearing on Original Page 10-J, 65th Revised Page 38 and 29th Revised Page 40-C to Agent R. C. Lounsbury's C.A.B. No. 118, be and hereby is extended to and including March 30, 1961.

2. A copy of this order shall be filed with the aforesaid tariffs and shall be served upon Allied Air Freight International Corp., Pan American World Airways, Inc., Riddle Airlines, Inc., and Transportation Corporation of America.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] ROBERT C. LESTER,
Secretary.

[F.R. Doc. 60-12039; Filed, Dec. 27, 1960;
8:51 a.m.]

[Docket 11927]

TRANSCONTINENTAL, S.A.

Notice of Prehearing Conference

In the matter of the application of Transcontinental, S.A. Docket 11927, for a renewal of its permit to engage in foreign air transportation between points in Argentina, the intermediate points Sao Paulo and Rio de Janeiro, Brazil; Caracas, Venezuela; and the terminal point New York, New York.

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on January 13, 1961, at 10:00 a.m., e.s.t., in Room 701, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner John A. Cannon.

Dated at Washington, D.C., December 21, 1960.

[SEAL]

FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60-12040; Filed, Dec. 27, 1960;
8:51 a.m.]

CIVIL SERVICE COMMISSION

POSITIONS FOR WHICH THERE IS DETERMINED TO BE A MANPOWER SHORTAGE

Notice of Listing

Under the provisions of Public Law 86-587, the Civil Service Commission had determined that there is a manpower shortage for positions of Engineering Technician (Nuclear Reactor Operator), GS-802-O, grades 9 to 13, National Aeronautics and Space Administration, Sandusky, Ohio, and travel and transportation expenses may be made for appointees to their duty station.

Any payment of travel and transportation expenses made to appointees as a result of this determination must be in accordance with travel regulations issued by the Bureau of the Budget.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] DAVID F. WILLIAMS,
Director, Bureau of Management Services.

[F.R. Doc. 60-11972; Filed, Dec. 27, 1960;
8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 13878; FCC 60M-2157]

CHEROKEE COUNTY RADIO STATION

Order Scheduling Hearing

In re application of Mac M. Thomas and Ruby Jo Clotfelter d/b as Cherokee County Radio Station, Centre, Alabama, Docket No. 13878, File No. BP-13034; for construction permit.

It is ordered, This 19th day of December 1960, that Elizabeth C. Smith will

preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 21, 1961, in Washington, D.C.

Released: December 21, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-12030; Filed, Dec. 27, 1960;
8:50 a.m.]

[Docket Nos. 13865-13866; FCC 60M-2155]

ARTHUR A. DETERS AND COLLEGE RADIO

Order Scheduling Hearing

In re applications of Arthur A. Deters, Greenfield, Massachusetts, Docket No. 13865, File No. BP-13046; Augustine L. Cavallaro, Jr., tr/as College Radio, Amherst, Massachusetts, Docket No. 13866, File No. BP-14179; for construction permits.

It is ordered, This 19th day of December 1960, that Herbert Sharfman will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 21, 1961, in Washington, D.C.

Released: December 21, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-12031; Filed, Dec. 27, 1960;
8:50 a.m.]

[Docket Nos. 13745-13746; FCC 60M-2161]

RADIO STATION WHCC (WHCC) AND ALUMINUM CITIES BROADCASTING CO. (WGAP)

Order Setting Further Prehearing Conference

In re applications of Kenneth D. Fry and Margaret F. Fry d/b/as Radio Station WHCC (WHCC), Waynesville, North Carolina, Docket No. 13745, File No. BP-12615, Has: 1400 kc, 250 w, U, Requests: 1400 kc, 250 w, 1 kw-LS, U; Harry C. Weaver and Frank H. Corbett, a Limited Partnership, d/b as Aluminum Cities Broadcasting Company (WGAP), Maryville, Tennessee, Docket No. 13746, File No. BP-12642, Has 1400 kc, 250 w, U, Requests: 1400 kc, 250 w, 1 kw-LS, U; for construction permits.

It appearing that counsel for the applicants herein has this date orally advised the Hearing Examiner that said parties now propose to proceed to an evidentiary hearing on their respective applications; and

It further appearing that the hearing date originally scheduled in the instant proceeding was postponed indefinitely pending submission to the Commission by these applicants of petitions for reconsideration and grants without hearing of their applications, and that the course of action now indicated by applicant's counsel makes it advisable to convene a further prehearing conference on the Examiner's own motion for the pur-

pose of reaching agreements on the scheduling of a new hearing date as well as other procedural dates;

Accordingly, it is ordered, This 20th day of December 1960, on the Hearing Examiner's own motion, that all parties, or their counsel, in the above-captioned proceeding are directed to appear for a further prehearing conference pursuant to the provisions of § 1.111 of the Commission's rules, on Thursday, January 5, 1961, at 10:00 a.m. in the offices of the Commission at Washington, D.C.

Released: December 21, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-12032; Filed, Dec. 27, 1960;
8:50 a.m.]

[Docket Nos. 13867-13869; FCC 60M-2156]

SPENCER BROADCASTING CO. ET AL.

Order Scheduling Hearing

In re applications of Spencer Broadcasting Company, Spencer, West Virginia, Docket No. 13867, File No. BP-12886; WSTV, Inc. (WBOY), Clarksburg, West Virginia, Docket No. 13868, File No. BP-13116; Community Radio, Inc., Spencer, West Virginia, Docket No. 13869, File No. BP-14102; for construction permits.

It is ordered, This 19th day of December 1960, that David I. Kraushaar will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 16, 1961, in Washington, D.C.

Released: December 21, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-12033; Filed, Dec. 27, 1960;
8:50 a.m.]

FEDERAL POWER COMMISSION

SECOND AMENDMENT TO STATE- MENT OF GENERAL POLICY NO. 61-1

DECEMBER 20, 1960.

In our Statement of General Policy No. 61-1, issued September 28, 1960, we announced a price level of 14.0 cents per Mcf for increased rates of independent producers in Texas District Nos. 2, 3, 4, and 6. We also stated therein that as it becomes apparent that certain adjustments have general applicability in a specific area, the area price standard will be revised and set forth in greater detail with regard to the conditions to which the rate applies.

Prior to the issuance of Statement of General Policy No. 61-1, the Commission had in numerous cases accepted settlement offers providing for elimination of price redetermination and favored-nation provisions and had accepted increased rates higher than the ceiling for increased rates announced in our Policy Statement for Texas District Nos. 2, 3, 4, and 6.

As a result of our considerable experience with the effects of favored-nation and price redetermination provisions upon independent producer prices, we concluded that acceptance of settlement offers was desirable in the public interest, appropriate to carry out the provisions of the Natural Gas Act, and beneficial to ultimate consumers, pipeline purchasers and independent producers. In view of the foregoing, an adjustment to the price level for increased rates in Texas District Nos. 2, 3, 4, and 6, when coupled with the elimination of price redetermination provisions and favored-nation provisions in existing filed rate schedules appears to be appropriate.

Accordingly, the Commission's Statement of General Policy No. 61-1, issued September 28, 1960, as amended, is hereby further amended to provide:

For rate schedules from which favored-nation provisions, price redetermination provisions, and periodic escalation clauses have been eliminated, the area price level for increased rates for natural gas sales by independent producers in Texas District Nos. 2, 3, 4, and 6 is 15¢ per Mcf at 14.65 psia.

For rate schedules from which favored-nation and price redetermination provisions have been eliminated, the area price level for increased rates for natural gas sales by independent producers in Texas District Nos. 2, 3, 4, and 6 is 14.6 cents per Mcf at 14.65 psia, provided, however, that any escalations contained in such rate schedules shall not take effect prior to February 5, 1963, further escalations shall not take effect at less than five-year intervals from the effective date of the initial escalation, and the increase in rate for such escalation shall not exceed one cent per Mcf.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-11982; Filed, Dec. 27, 1960;
8:45 a.m.]

[Docket No. CP61-78]

ARKANSAS LOUISIANA GAS CO.

Notice of Application and Date of Hearing

DECEMBER 20, 1960.

Take notice that on September 20, 1960, as supplemented on November 4, 1960, Arkansas Louisiana Gas Company (Applicant), Slattery Building, Shreveport, Louisiana, filed in Docket No. CP61-78 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of field facilities to enable Applicant to take into its certificated transmission pipeline system natural gas which will be purchased from producers thereof from time to time during the calendar year 1961 in the general area of Applicant's existing transmission system at a total cost not to exceed \$6,918,500, with no single project to exceed a cost of \$500,000, all as more fully set forth in the application and supplement which are on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to augment applicant's ability to act with reasonable dispatch in contracting for and connecting to its exist-

ing pipeline system new supplies of natural gas in various producing areas generally coextensive with said system.

Applicant proposes to finance the cost of the subject facilities from funds on hand, from cash generated by operations and from internal sources.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice, that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 12, 1961, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 10, 1961. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-11983; Filed, Dec. 27, 1960;
8:45 a.m.]

[Docket No. G-20032, etc.]

BEN BOLT GATHERING CO. ET AL.

Notice of Postponement of Hearing

DECEMBER 20, 1960.

Ben Bolt Gathering Company, Docket No. G-20032; Associated Oil & Gas Co., et al., Docket No. G-20058; Carrl Oil, Operator, Docket No. G-20331; East White Point Gathering Company, Docket No. G-20355; Engeo Gathering Company, Docket No. G-20356; Engeo Oil & Gas Company, Operator, Docket No. G-20357; Burdette Graham, Operator, Docket No. G-20360.

Upon consideration of the motion filed December 15, 1960 by Counsel for Associated Oil & Gas Co., et al., for postponement of the hearing now scheduled for December 27, 1960 in the above-designated matters;

The hearing now scheduled for December 27, 1960 is hereby postponed to February 27, 1961, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-11984; Filed, Dec. 27, 1960;
8:45 a.m.]

[Docket No. E-6974]

IOWA POWER AND LIGHT CO.

Notice of Application

DECEMBER 20, 1960.

Take notice that on December 13, 1960, an application was filed with the Federal Power Commission pursuant to section 203 of the Federal Power Act by Iowa Power and Light Company ("Applicant"), authorizing the sale of certain of its facilities to Iowa Southern Utilities Company (Iowa Southern) and to acquire certain facilities from Iowa Southern. Applicant is a public utility engaged in electric and natural gas service in the central and southwestern sections of Iowa with its principal business office at Des Moines, Iowa. The application is for an exchange of electric facilities between Applicant and Iowa Southern with a consideration of \$99,489 to be paid to Applicant by Iowa Southern. Also certain electric facilities of Applicant which are not transferred to Iowa Southern and are no longer needed for service to Iowa Southern will be retired. The proposed exchange is designed so as to give each company ownership of the facilities located in its service area and most directly useful in serving its customers. The exchange in no way affects the immediate use of any property, and the proposed exchange does not include all of the facilities of either of the companies. The major property items involved in the exchange are as follows:

Property now owned by Iowa Power and Light Company and proposed for transfer to Iowa Southern Utilities Company:

1. That portion of Newton-Marshalltown 115,000 volt transmission line owned by Iowa Power and Light Company.
2. Certain facilities at the Newton 115,000/46,000 volt substation.
3. The Newton-Metz tap portion of the Newton-Prairie City 46,000 volt transmission line.
4. Certain metering facilities located in the Chariton substation, Creston plant and Metz pumping station.

Property now owned by Iowa Southern Utilities Company and proposed for transfer to Iowa Power and Light Company:

1. The Prairie City-Skunk River portion of the Prairie City-Newton 69,000 volt transmission line including a small tract of land.
2. Certain facilities in the Prairie City 69,000 volt Switching Station.

Property now owned by Iowa Power and Light Company and proposed for retirement:

1. All remaining facilities located in the Newton substation.
2. The Prairie City-Metz tap portion of the Prairie City-Newton 46,000 volt transmission line.
3. The remaining metering facilities owned in the Chariton substation.

According to the application, the proposed exchange will have no effect upon any contract for the purchase, sale, or interchange of electric energy. Applicant states that the proposed exchange

will be in the public interest by helping each utility to render more efficient service to its customers, giving each utility ownership of the facilities that it needs to furnish adequate, reliable service to its customers. The agreement between Applicant and Iowa Southern to effect the above-described exchange is dated August 23, 1960.

Any person desiring to be heard or to make any protest with reference to said application should on or before the 9th day of January 1961, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-11985; Filed, Dec. 27, 1960;
8:45 a.m.]

[Docket No. RP61-15]

TEXAS GAS TRANSMISSION CORP.

Order Permitting Filing of Tariff Sheets and Providing for Hearing on Proposed Revised Tariff Sheets and Suspension of Certain Filings; Correction

DECEMBER 20, 1960.

In the Order Permitting Filing of Tariff Sheets and Providing For Hearing on Proposed Revised Tariff Sheets and Suspension of Certain Filings, issued December 5, 1960 and published in the FEDERAL REGISTER on December 10, 1960 (F.R. Doc. 60-11498; 25 F.R. 12721): At the top of page 12722 change "Eighth Revised Sheets Nos. 70-I and 79-J" to read "Eighth Revised Sheets Nos. 79-I and 79-J."

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-11986; Filed, Dec. 27, 1960;
8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 22, 1960.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 36815: *Passenger fares—Erie & St. Lawrence Corporation.* Filed by Erie & St. Lawrence Corporation (No. 3) for itself. Involving fares for the transportation of persons by water between Port Newark, N.J., and Jacksonville, Fla., via Miami, Fla.

Grounds for relief: Operation through higher-rated intermediate point.

Tariff: Supplement 2 to Erie & St. Lawrence Corporation tariff I.C.C. 1.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-12035; Filed, Dec. 27, 1960;
8:50 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1369]

AMERICAN RESEARCH & DEVELOPMENT CORP. AND TRACERLAB, INC.

Notice of Application for Order Exempting Transactions

DECEMBER 20, 1960.

Notice is hereby given that American Research and Development Corporation ("Research"), a registered closed-end non-diversified management investment company, and Tracerlab, Incorporated ("Tracerlab"), a manufacturing company, have filed an application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act"), requesting an order exempting from the provisions of section 17(a) of the Act a refunding loan by Research to a wholly owned subsidiary of Tracerlab and the granting by Tracerlab to Research of options to purchase common stock of Tracerlab, as more fully described below.

Tracerlab is a Massachusetts corporation having its principal place of business in Waltham, Massachusetts. Tracerlab's business consists of the manufacture and sale of scientific and industrial instruments and equipment for the utilizing, detection and measurement of radioactivity, research and service activities in the field of nuclear physics and chemistry and, through its wholly owned subsidiary, Keleket X-Ray Corporation, the manufacture and sale of X-Ray equipment, accessories and supplies.

Tracerlab holds a note of its wholly owned subsidiary, Tracerlab Realty Inc. ("TRI"), secured by a second mortgage on the land and building occupied by Tracerlab in Waltham, Massachusetts. Research purchased, pursuant to an order of the Commission dated March 27, 1957 (Investment Company Act Release No. 2502) and amendment thereto dated August 8, 1957 (Investment Company Act Release No. 2570), and now holds a 25 percent participation in such second mortgage indebtedness. Such second mortgage indebtedness became due on September 30, 1960, and Research proposes to make a refunding loan to TRI in the full principal amount of such unpaid indebtedness which refunding loan would extend the maturity of the second mortgage indebtedness to September 30, 1966, and reduce the interest rate thereof from 6 percent to 5 percent per annum. Such refunding note would continue to be secured by a second mortgage on TRI's property. In order to induce Research to take such refunding note, Research will be granted options to pur-

chase additional shares of Tracerlab common stock. Research now owns 88,459 shares of stock.

Tracerlab's plant in Waltham, Massachusetts, is owned by TRI subject to the following:

1. A first mortgage held by The Equitable Life Assurance Society of the United States in an original principal amount of \$1,000,000, of which \$386,789 is now outstanding.

2. The second mortgage indebtedness herein described, held by Tracerlab in an original principal amount of \$400,000, of which \$324,780 is now outstanding. Research's participation interest therein is now \$81,195.

3. A long-term lease to Tracerlab, payments under which are stated to be sufficient to service and pay the first and second mortgage indebtedness except for a balance of \$341,459.48 in connection with the first mortgage indebtedness to be paid on February 1, 1972.

Tracerlab initially sold to Research a 25 percent participating interest in the original second mortgage note and second mortgage for \$100,000, paid in cash. At the same time Research purchased 25,454 shares of Tracerlab's common stock for a price of \$5.50 per share. These transactions were consummated pursuant to the above mentioned orders of the Commission. In connection with the sale of the 25 percent participation in the second mortgage indebtedness to Research, Tracerlab entered into an agreement with Research that if Tracerlab did not dispose of the entire second mortgage indebtedness to other interests on or before one year from the date of the acquisition by Research of its certificate of participation, Tracerlab would cause the second mortgage indebtedness to be modified so as to make it due and payable in full on or before September 30, 1960, instead of September 30, 1966. Such second mortgage indebtedness was not so disposed of and accordingly, on June 30, 1958, a new second mortgage note having a maturity of September 30, 1960, was delivered by TRI to Tracerlab, and a new Certificate of Participation therein was delivered by Tracerlab to Research.

TRI desires to refund and extend the maturity of the second mortgage indebtedness for six years to September 30, 1966, and to reduce the interest rate from 6 percent to 5 percent. The proposed refunding by Research of TRI's second mortgage indebtedness will involve an increased investment of \$243,584 by Research over the amount of its present participation in such indebtedness. Tracerlab will realize approximately \$243,584 of net proceeds through its receipt of payment of the present second mortgage note of TRI which it holds. As further consideration and as an inducement for Research to undertake such refunding, Tracerlab proposes to grant Research an option to purchase at any time or times while the note is unpaid and for a period of thirty days thereafter, up to 25,000 additional shares of Tracerlab common stock at an option price of \$11.48 per share, that price for which certain shares

were recently exchanged and sold to an investor in Belgium in connection with Tracerlab's acquisition and financing of Physique Industrielle S.A.

The reasons stated in the application for Tracerlab's desire to extend and revise the debt with increased participation by Research, is because payment of Research's present 25 percent participation in the second mortgage indebtedness would decrease Tracerlab's cash when it has a particular need to increase its working capital. Research is willing to take the full amount of such extended and revised indebtedness of TRI because it believes the obligation to be well secured and because Research now holds a substantial amount of Tracerlab common stock and believes it is in the best interests of Tracerlab and its shareholders for Tracerlab to so increase its working capital at this time. The property is stated to be well maintained and is believed to have a realizable market value substantially in excess of the total mortgage indebtedness. The application also states that Tracerlab's new products have been well received and that the financial position and results of operations of Tracerlab and its subsidiaries have been improving over the past three years. It is also stated that operations for the year 1960 are expected to be profitable assuming no extraordinary changes in general business conditions or in the position of Tracerlab. A net profit of \$55,000 is shown for the first six months of 1960.

Section 17(a) of the Act, in pertinent part, prohibits an affiliated person of a registered investment company from borrowing money from such registered company and from knowingly selling its securities.

Under section 17(b), the Commission shall, however, upon application grant an order exempting proposed transactions of the Applicant if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of the registered investment company concerned, and that the proposed transaction is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than January 3, 1961, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after such date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application unless an order for hearing upon said applica-

tion shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 60-11995; Filed, Dec. 27, 1960;
8:46 a.m.]

[File No. 812-1367]

DELAWARE REALTY AND INVESTMENT CO. AND CHRISTIANA SECURITIES CO.

Notice of Filing of Application for Order Exempting Transactions Between Affiliates Incident to a Merger

DECEMBER 19, 1960.

Notice is hereby given that Delaware Realty and Investment Company ("Delaware") and Christiana Securities Company ("Christiana"), both of which are incorporated in the State of Delaware and are registered under the Investment Company Act of 1940 ("Act") as closed-end non-diversified management investment companies, have filed a joint application pursuant to sections 17(b) and 6(c) of the Act for an order exempting from the provisions of section 17(a) of the Act certain transactions incident to a proposed merger of Delaware into Christiana, with Christiana as the surviving corporation. All interested persons are referred to said application for a statement of the proposed transaction which is summarized below.

Delaware owns 49,000 shares (32.7 percent) of the 150,000 outstanding shares of common (voting) stock of Christiana. Accordingly, Delaware presumptively controls Christiana within the meaning of section 2(a)(9) of the Act, and the companies are affiliated persons as defined in section 2(a)(3) of the Act.

Christiana's assets consist of cash and securities, of which the most important holding is 12,199,200 shares (26.6 percent) of the outstanding common stock of E. I. du Pont de Nemours and Company ("du Pont"). The value of the total net assets of Christiana as of September 30, 1960, with investments reflected at market value on November 11, 1960, was \$2,418,263,000, of which 98.6 percent was represented by its holdings of common stock of du Pont. The remaining security holdings of Christiana consist primarily of common stock of General Motors Corporation which represents approximately 1 percent of the value of the assets of Christiana.

Christiana has outstanding 150,000 shares of 7 percent cumulative preferred stock, having a liquidation value of \$100 per share and a redemption price of \$120 per share, and 150,000 shares of common stock. The net asset value of the common stock of Christiana, based on the market value of its portfolio as of November 11, 1960, and after deducting its outstanding preferred stock at the redemption price, was \$16,001.75 per share. The bid price of the common stock in the over-the-counter market on November 11, 1960 was \$13,900 per share. There

are approximately 3,800 holders of Christiana common stock.

Delaware's assets are represented by cash and security holdings consisting primarily of the above common stock interest in Christiana and 1,217,920 shares (2.7 percent) of the outstanding common stock of du Pont. Its remaining assets consist of 43,500 shares (29 percent) of the cumulative preferred stock of Christiana, 300,000 shares (3.56 percent) of the common stock of Hercules Powder Company ("Hercules"), and 16,256 shares of \$4.50 cumulative preferred stock of du Pont. The value of the total net assets of Delaware as of September 30, 1960, based on the net asset value of its common stock interest in Christiana, the redemption price of its holdings of Christiana preferred stock, and the market value of its other security holdings on November 11, 1960, was \$1,052,225,000. Of this amount, 74.5 percent was represented by its holdings of Christiana common stock and 22.6 percent by its holdings of du Pont common stock. Delaware's indirect (through Christiana) and direct holdings in du Pont represented more than 97 percent of the value of the net assets of Delaware.

The outstanding securities of Delaware consist of 785,000 shares of common stock, held by approximately 220 stockholders. The underlying net asset value of such stock as of November 11, 1960, determined as above indicated, was \$1,340.41 per share. There is no quoted market for such common stock.

Under the proposed plan of merger, the outstanding common stock of Delaware will be converted into such number of shares of common stock of Christiana as determined by dividing the net asset value per share of the Christiana common stock into an amount equal to 98.5 percent of the total underlying net asset value of the Delaware common stock, except that for purposes of determining Delaware's underlying net asset value the market value of its holdings of Hercules common stock will be reduced by an amount equal to one-half of the estimated expenses (approximately 7½ percent of the market value of the stock) and capital gains taxes that would be incurred if there were a public sale of the Hercules stock. The applicants state that the adjustment in respect of the Hercules stock, which would reduce the underlying net asset value of the Delaware common stock as of November 11, 1960, to \$1,335.99 per share, is appropriate since it is contemplated that the surviving corporation following the merger will dispose of the Hercules stock because of possible antitrust considerations and that, although the divestment will probably be effected through a voluntary exchange of Hercules stock for outstanding common stock of the surviving corporation, the adjustment reflects reasonable latitude to Christiana in disposing of the Hercules stock without loss and also provides compensation for the market risk which Christiana will undertake up to the time of divestment.

The conversion ratios under the plan of merger will be determined by the respective boards of directors on the basis

of valuations made as of the closest practicable date to the closing date, which will be January 16, 1961, or such later date within sixty days thereafter as may be fixed by the boards of directors. On the basis of market values as of November 11, 1960, and giving effect to the methods of valuation employed in the plan, the 785,000 shares of Delaware common stock would be converted into 64,557 shares of Christiana common stock, with each share of Delaware common stock being converted into 0.08224 shares of Christiana common stock. On the basis of market values on November 11, 1960, the pro forma net asset value of the surviving corporation would amount to \$16,096.76 per share, or an increase of 0.6 percent over the net asset value of the present Christiana common stock of \$16,001.75 per share, while the pro forma net asset value applicable to each present share of Delaware common stock would amount to \$1,323.77, or a reduction of 0.9 percent from the adjusted underlying net asset value of the Delaware stock of \$1,335.99 per share. On the basis of statements of income of the companies for the year 1959, net income of \$524.67 applicable to each share of common stock of Christiana would be increased to \$525.64 pro forma after the merger, or an increase of 0.2 percent; and net income of \$40.79 applicable to each present share of Delaware common stock would be increased to \$43.23 pro forma, or an increase of 6 percent.

All common and preferred stock of Christiana owned by Delaware will be canceled in the merger. All other shares of stock of Christiana will remain outstanding. Christiana will not issue fractional shares to the stockholders of Delaware. In lieu thereof Christiana, in its discretion, may adopt either of the following procedures: (1) Christiana may issue scrip certificates exchangeable until the second anniversary of the date of the merger for common stock when combined in sufficient amount for one full share of stock; or (2) Christiana may afford each stockholder the opportunity for a period of not less than sixty nor more than ninety days following the merger to consolidate his fractional interest into one full share of common stock by purchasing the additional fractional interest required or to sell his fractional interest. Any scrip certificates or fractional interests remaining after the period for consolidation has expired (depending upon which of the foregoing alternative procedures is adopted by Christiana) will be sold and the proceeds held for the persons entitled thereto for a period of six years from the date of the merger, after which any amounts remaining unclaimed will become the property of Christiana.

Under the Delaware Corporation Law, after approval of the agreement of merger by the respective boards of directors of Delaware and Christiana, the affirmative vote of the holders of two-thirds of the total outstanding shares of each company will be required, with Christiana's common and preferred stock voting together as a class. Any stock-

holder not voting in favor of the merger who objects in writing within the prescribed time may receive the appraised value of his shares in cash.

The plan of merger contemplates that shortly following the merger the board of directors of Christiana, as the surviving corporation, will call a meeting of stockholders to vote on a split-up of the Christiana stock on an 80-for-1 basis. It is also contemplated that, to effect the divestment of the common stock of Hercules, an exchange offer will be made to the stockholders of the surviving corporation to tender their Christiana stock for Hercules stock on the basis of the relative market values of the two stocks after discounting the Hercules stock by not more than 15 percent from its market value.

The proposed plan of merger and the method of determining the conversion ratios were developed on the basis of a detailed financial study made by Morgan Stanley & Co., an investment banking firm which has no affiliation with Delaware or Christiana. The study concluded that the merger would confer advantages on the stockholders of both companies and that the terms of the merger were fair and reasonable to them. It deemed the discount of 1.5 percent applied to the adjusted underlying net asset value of the Delaware stock to be justified primarily because of the intercorporate relationships of the two companies and its opinion that a portion of the increase in earnings which would become available to the shareholders of Delaware through the tax savings resulting from a merger should be made available to the shareholders of Christiana as an inducement to them to provide the requisite votes for approval of the merger.

Section 17(a) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to or purchasing from such registered company or any company controlled by such registered company, any security or other property, subject to certain exceptions, unless the Commission upon application pursuant to section 17(b) grants an exemption from the provisions of section 17(a), after finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act, and is consistent with the general purposes of the Act. Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any transaction or class of transactions from any provision of the Act if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 12, 1961, submit to the Commission in writing a request for a hearing on the

matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

It is ordered, That the Secretary of the Commission shall give notice of this filing by mailing a copy of this notice by registered mail to Delaware and Christiana; and that applicants shall cause a copy of this notice to be mailed on or before December 23, 1960, to each stockholder of Delaware and Christiana at his last known address.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 60-11996; Filed, Dec. 27, 1960;
8:46 a.m.]

[File No. 812-1356]

DEVONSHIRE STREET FUND, INC.

Notice of Application for Order of Exemption

DECEMBER 20, 1960.

Notice is hereby given that Devonshire Street Fund, Inc. ("Applicant"), of Boston, Massachusetts, a Massachusetts corporation and an open-end, diversified management investing company registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicant from compliance with the provisions of section 14(a) of the Act.

Applicant has filed a registration statement under the Securities Act of 1933, seeking registration of 2,000,000 shares of common stock, \$1 par value, to be offered to investors in exchange for such investors' securities. Such registration statement has not as yet become effective. The purpose of the Fund is to provide investors holding securities at relatively low tax bases with a means of exchanging such securities for shares of the Fund, thereby obtaining diversification without incurring any Federal capital gains tax liability at the time of such exchange. Applicant intends to solicit deposits of securities, to be held by an escrow agent in safekeeping for the separate account of each investor, for a period of not to exceed 90 days after the effective date of the Securities Act registration statement. At all times during the solicitation period, the depositing investor will retain all incidents of ownership to the securities deposited, with the right to withdraw

such securities from the deposit without charge.

The minimum deposit to be accepted from any investor is to be securities having a market value of \$15,000, and the exchange will not be consummated unless the market value of the deposited securities as at the effective date of the planned exchange aggregates a minimum of \$10,000,000. In the event that such value is not then realized, the deposited securities will be returned to investors without charge to them. If such value, determined as at the respective dates of deposits, is obtained upon the termination of the solicitation period, a report describing the deposited securities, including their current market value and their basis for Federal income taxation, will be mailed to all depositing investors, who will then have the right to withdraw any or all of their deposited securities for a period of 20 days from the mailing of the report. During this period and for a further period of 10 days thereafter, Applicant may require any investor to withdraw any or all of his deposited securities, in which event such investor will have the right to withdraw any or all of his securities from the deposit for a further period of 10 days. If, as a result of voluntary withdrawals, an investor's deposited securities are reduced below the \$15,000 minimum value, then the investor will be required to withdraw his entire deposit, but such requirement will not be operative if such reduction below the minimum is caused, wholly or in part, by required withdrawals. All of Applicant's shares which are issued in exchange for securities will be issued simultaneously on the effective date of the exchange.

Section 14(a) of the Act provides, in pertinent part, that no registered investment company shall make a public offering of its securities unless such company has a net worth of at least \$100,000 or unless provision is made as a condition of the registration of its securities under the Securities Act which, in the opinion of the Commission, adequately insures (A) that, after the effective date of such registration statement, it will not issue any security or receive any proceeds of any subscription until no more than 25 responsible persons have made firm agreements to purchase securities in an aggregate net amount which will give the company a net worth of at least \$100,000; (B) that said amount will be paid in to such company before subscriptions will be accepted from any persons in excess of 25; and (C) that arrangements will be made whereby any amounts so paid in, plus any sales load, will be refunded to any subscriber on demand in the event the net proceeds so received do not result in the company's having a net worth of at least \$100,000 within 90 days after such registration statement becomes effective. Applicant's presently outstanding capital stock consists of three shares of common stock owned by the Fund's proposed investment adviser, which shares were purchased at a price of \$12.50 per share. Applicant submits that under the circumstances described the exemption sought would be consistent with the pur-

poses intended to be served by section 14(a).

Section 6(c) of the Act provides, among other things, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 3, 1961, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F.R. Doc. 60-11997; Filed, Dec. 27, 1960;
8:46 a.m.]

[File Nos. 59-106, 54-229]

LYNN ELECTRIC CO. AND NEW ENGLAND ELECTRIC SYSTEM

Notice of Filing and Order for Hearing; Order Instituting Proceedings

DECEMBER 20, 1960.

In the matters of Lynn Electric Company and New England Electric System, File No. 59-106; New England Electric System, File No. 54-229.

I. Notice is hereby given that New England Electric System ("NEES"), a registered holding company, has filed a plan pursuant to section 11(e) of the Public Utility Holding Company Act of 1935 ("Act") providing for the issue by NEES of its common stock in exchange for the 2.82 percent publicly-held common stock of Lynn Electric Company ("Lynn"), an electric utility subsidiary company of NEES. A copy of the plan may be examined at the offices of this Commission or is available, on request, at the offices of NEES (441 Stuart Street, Boston 16, Massachusetts). All interested persons are referred to said plan for a full statement of the transactions and terms proposed therein which are summarized as follows:

NEES will issue 40,233 shares of its common stock in exchange for the publicly-held common stock of Lynn at the exchange ratio of $2\frac{1}{4}$ common shares

of NEES for each share of common stock of Lynn. No fractional shares will be issued by NEES but, in lieu thereof, fractional scrip, exchangeable for whole shares, will be delivered to the public-holders of the common stock of Lynn and, unless consolidated, will become void five years after the consummation date, as defined in the plan.

The plan will be consummated on a date (called the "Consummation Date") which will be the earliest practicable date after the entry of an order by a Court approving and enforcing the plan and will be effective as of a date (called the "Effective Date") which will be not more than sixty (60) days prior to the Consummation Date. On the Consummation Date NEES will become the owner of all of the shares of common stock of Lynn and all previously existing rights of the public-holders of such common stock will cease. On and after such Consummation Date the public-holders will be entitled to receive NEES' common shares and fractional scrip as provided under the plan (and any dividends that may have been paid on said NEES common shares prior to exchange).

At the end of five (5) years from the Consummation Date any common shares, scrip, and dividends held on account of unexchanged shares of common stock of Lynn shall irrevocably belong to NEES and the public-holders of such stock will have lost all rights with respect thereto.

II. The Commission having been advised by its Division of Corporate Regulation ("Division") that the Division, pursuant to sections 11(a), 18(a), and 18(b) of the Act, has made a preliminary examination of the corporate structure of Lynn, and the relationship between Lynn and the other companies in the NEES holding company system; and it appearing to the Division from such examination that:

1. NEES is a voluntary association created in 1926 in Massachusetts by Agreement and Declaration of Trust, is solely a holding company, and is registered as such under section 5 of the Act.

2. As of June 30, 1960, NEES had outstanding 13,051,590 shares of \$1 par value common stock the holders of which are entitled to one vote for each share held and are entitled to dividends out of net earnings or surplus of NEES when declared by the board of directors.

3. NEES owns 97.18 percent of the outstanding shares of common stock of Lynn and the public owns 2.82 percent thereof.

4. Lynn owns and operates facilities for the generation, transmission, distribution, and sale of electric energy.

5. As at June 30, 1960, Lynn's property, plant, and equipment account was stated on its books at \$21,409,887 and such account less reserves for depreciation (\$7,386,071) amounted to \$14,023,816.

6. For the twelve months ended June 30, 1960, Lynn's sales of electric energy amounted to \$8,185,893.

7. Of the 265,087,454 kwh electric energy generated (net) and purchased by Lynn in the calendar year 1959, it

purchased 137,606,712 kwh from New England Power Company, and 14,954 kwh from Suburban Electric Company, both of which are electric utility companies all of the common stocks of which are owned by NEES. The balance of Lynn's electric energy requirements were generated by itself.

III. The Division avers that the foregoing allegations establish or tend to establish that voting power is unfairly and inequitably distributed among the security holders of Lynn.

IV. It being the duty of the Commission pursuant to section 11(b)(2) of the Act, to require by order, after notice and opportunity for hearing, that each registered holding company and each subsidiary company thereof take such steps as the Commission shall find necessary to ensure that the corporate structure or continued existence of any company in a holding company system does not, among other things, unfairly or inequitably distribute voting power among security holders of such holding company system; and

The Commission being required by the provisions of section 11(e) of the Act to find, after notice and opportunity for hearing and before approving any plan filed thereunder, that such plan, as submitted or as modified, is necessary to effectuate the provisions of section 11(b) and is fair and equitable to the persons affected thereby; and

The Commission deeming it appropriate that notice be given and a hearing held for the purpose of determining what action should be ordered under section 11(b)(2) and for the purpose of ascertaining whether the plan should be approved; and

It appearing that common issues of fact and law arise in connection with the plan and in connection with issues involved under section 11(b)(2), making it appropriate that the hearing on said matters be consolidated and that NEES and Lynn should be made parties to the consolidated proceeding:

It is hereby ordered:

(a) That a proceeding be, and the same hereby is, instituted in respect of NEES and Lynn pursuant to section 11(b)(2) of the Act; and

(b) That said proceeding be, and the same hereby is, consolidated with the proceeding in connection with the plan of NEES; and

(c) That NEES and Lynn be, and the same hereby are, made parties to said consolidated proceeding; and

(d) That NEES and Lynn file an answer or answers with the Secretary of the Commission on or before January 12, 1961, to the allegations contained in Parts II and III hereof, in the form prescribed by Rule 25 of the rules and regulations under the Act. Any of such allegations which are not denied or otherwise controverted shall be deemed to be admitted for the purpose of these proceedings.

It is further ordered. That the hearing in the consolidated proceedings be held on the 26th day of January 1961, at 10:00 a.m., at the offices of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D.C., in such

room as may be designated on such date by the hearing room clerk. Any persons desiring to be heard in connection with these proceedings or proposing to intervene therein shall file with the Secretary of the Commission, on or before January 23, 1961, a written request relative thereto as provided in Rule 9 of the Commission's rules of practice.

It is further ordered, That James G. Ewell or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under section 18(c) of said Act and to a hearing officer under the Commission's rules of practice.

The Division having advised the Commission that, upon the basis of its preliminary examination of the affairs and of the corporate structures of NEES and Lynn and of a preliminary study of said plan of NEES, the following matters and questions are presented for consideration at such hearing without prejudice, however, to the presentation of additional matters and questions upon further examination:

1. Whether the allegations contained in Parts II and III hereof are true and correct;
2. Whether the corporate structure of Lynn unfairly and inequitably distributes voting power among its security holders, and, if so, what steps, if any, are necessary and should be required to be taken by NEES and Lynn to distribute fairly and equitably the voting power among the security holders of Lynn;
3. Whether the plan, as submitted by NEES or as it may be modified or amended, is necessary to effectuate the provisions of section 11(b) (2) of the Act;
4. Whether the plan is fair and equitable to the persons affected thereby;
5. Whether, in general, the transactions proposed in the plan satisfy the applicable provisions of the Act; and
6. Whether the accounting entries proposed to be made in connection with the plan are proper and in accord with sound accounting principles.

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions.

It is further ordered, That jurisdiction be, and it hereby is, reserved to separate, in whole or in part, either for hearing or for disposition any issues or questions which may arise in these proceedings and to take such other action as may appear conducive to an orderly, prompt, and economical disposition of the matters involved.

It is further ordered, That the Secretary of the Commission shall serve notice of such hearing by mailing a copy of this order by registered mail to NEES and Lynn, to the Federal Power Commission, and to The Department of Public Utilities of Massachusetts and that said notice of said hearing be given to all other interested persons by a general release of the Commission and by publication of this order in the FEDERAL REGISTER.

It is further ordered, That NEES mail a copy of this notice and order to all stockholders of record of Lynn at least twenty-five days prior to the date herein fixed as the date for hearing.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 60-11998; Filed, Dec. 27, 1960;
8:46 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM RATES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order No. 524 (24 F.R. 9274) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

B. Bennett Co., Inc., 123 Magazine Street, New Orleans, La.; effective 12-27-60 to 12-26-61 (work and semi-dress pants, work and sport shirts).

Bestform Foundations of Windber, Inc., 21st Street and Stockholm Avenue, Windber, Pa.; effective 12-9-60 to 12-8-61 (ladies' brassieres and girdles).

Blue Bell, Inc., Prentiss County, Booneville, Miss.; effective 12-17-60 to 12-16-61 (blouses, shirts).

Cluett, Peabody & Co., Inc., Gilbert, Minn.; effective 12-17-60 to 12-16-61 (collars for first quality dress shirts).

Cluett, Peabody & Co., Inc., 1221 West Third Street, Williamsport, Pa.; effective 12-8-60 to 12-7-61 (men's sport shirts).

C. R. Dix, Inc., 7 Augusta Street, Greenville, S.C.; effective 12-12-60 to 12-11-61 (dresses).

Frances Gee Garment Co., Inc., Higginsville, Mo.; effective 12-9-60 to 12-8-61 (women's uniforms).

Kenrose Manufacturing Co., Inc., Radford, Va.; effective 12-12-60 to 12-11-61 (wash dresses).

Myrna Mills, Adamsville, Tenn.; effective 12-7-60 to 12-6-61 (men's and boys' sport shirts).

M. Nirenberg Sons, Inc., 750 Second Avenue, Troy, N.Y.; effective 12-16-60 to 12-15-61 (men's dress shirts).

Salant & Salant, Inc., Henderson, Tenn.; effective 12-13-60 to 12-12-61 (men's cotton work shirts).

Stahl-Urban Co., North Second Street, Brookhaven, Miss.; effective 12-19-60 to 12-18-61 (men's and boys' work trousers and sportswear).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Allee-Berry, Inc., Columbus, Kans.; effective 12-8-60 to 12-7-61; 10 learners (ivy style pants).

Baldwin Garment Co., Inc., Baldwin, Ga.; effective 12-9-60 to 12-8-61; 10 learners (ladies' blouses).

Glenn Berry Manufacturers, Inc., Oswego, Kans.; effective 12-10-60 to 12-9-61; 10 learners (boys' dungarees).

Irene Garment Co., R. 410 East Diamond Avenue, Hazleton, Pa.; effective 12-12-60 to 12-11-61; 10 learners (women's dresses).

Kilgore Mfg. Co., 400 South Longview, Kilgore, Tex.; effective 12-12-60 to 12-11-61; 10 learners. No learners may be employed in the production of separate skirts or suits under this certificate (replacement certificate) (women's dresses, blouses and slacks).

Lake Butler Apparel Co., Lake Butler, Fla.; effective 12-10-60 to 12-9-61; 10 learners (men's walking shorts).

The Loudoun Mfg. Co., Emmitsburg Manufacturing Co. Division, Emmitsburg, Md.; effective 12-8-60 to 12-7-61; 10 learners (men's trousers).

Nast Manufacturing Co., 231 Oak Street, Bonner Springs, Kans.; effective 12-8-60 to 12-7-61; 5 learners (men's and women's bowling shirts).

Nast Manufacturing Co., Edwardsville, Kans.; effective 12-8-60 to 12-7-61; 5 learners (men's bowling shirts).

Princess Kent, Inc., 198 Main Street, Fort Kent, Maine; effective 12-9-60 to 12-8-61; 10 learners (girls' nightwear).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.60 to 522.66, as amended).

The Boss Manufacturing Co., 105 Elm Street, Chillicothe, Mo.; effective 12-15-60 to 12-14-61; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.44, as amended).

Auburn Hosiery Mills, Inc., Auburn, Ky.; effective 12-7-60 to 12-6-61; 5 learners for normal labor turnover purposes (full-fashioned).

Kayser-Roth Hosiery Co., Inc., Pittsboro Seamless Knitting Division, Pittsboro, N.C.; effective 12-22-60 to 6-21-61; 15 learners for plant expansion purposes (seamless).

Knit-Sox Knitting Mills, Inc., 11 Eighth Street, S.E., Hickory, N.C.; effective 12-5-60 to 12-4-61; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Royal Hosiery Mills, Inc., Yanceyville, N.C.; effective 12-9-60 to 6-8-61; 15 learners for plant expansion purposes (full-fashioned, seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.30 to 522.35, as amended).

Ellwood Knitting Mills, Inc., 1110 Mecklen Lane and 911 Lawrence Avenue, Ellwood City, Pa.; effective 12-11-60 to 12-10-61; 5 percent of the total number of factory production workers for normal labor turnover purposes.

over purposes (men's and boys' knitted outerwear).

Shoe Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.50 to 522.55, as amended).

Greenup Manufacturing Co., Greenup, Ill.; effective 12-7-60 to 12-6-61; 10 percent of the total number of factory production workers for normal labor turnover purposes (children's shoes).

International Shoe Co., Batesville, Ark.; effective 12-7-60 to 12-6-61; 10 percent of the total number of factory production workers for normal labor turnover purposes (children's stitchdown shoes).

International Shoe Co., West Plains, Mo.; effective 12-22-60 to 12-21-61; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's welt dress shoes).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Caribe Staple Co., Calle Igualdad, Fajardo, P.R.; effective 11-14-60 to 4-19-61; 15 learners for plant expansion purposes in the occupations of: (1) the single occupation of machine operator, and inspector, each for a learning period of 480 hours at the rates of 75 cents an hour for the first 240 hours and 88 cents an hour for the remaining 240 hours; (2) inspector-packer for a learning period of 240 hours at the rate of 75 cents an hour (industrial staples).

D.W.G. International, Inc., Barrio Rincon, Gurabo, P.R.; effective 11-28-60 to 5-27-61; 30 learners for plant expansion purposes in the occupations of: (1) sorting and selecting for a learning period of 240 hours at the rate of 60 cents an hour; (2) machine stripping for a learning period of 160 hours at the rate of 65 cents an hour (process tobacco).

Overseas Sports Co., Inc., Mayaguez, P.R.; effective 11-21-60 to 11-20-61; 25 learners for normal labor turnover purposes in the occupation of handsewing of baseballs and softballs for a learning period of 320 hours at the rates of 47 cents an hour for the first 160 hours and 55 cents an hour for the remaining 160 hours (baseballs and softballs).

Overseas Sports Co., Inc., Mayaguez, P.R.; effective 11-21-60 to 5-20-61; 15 learners for plant expansion purposes in the occupation of handsewing of baseballs and softballs for a learning period of 320 hours at the rates of 47 cents an hour for the first 160 hours and 55 cents an hour for the remaining 160 hours (baseballs and softballs).

Paradise Manufacturing, Inc., Gurabo, P.R.; effective 11-16-60 to 5-1-61; 25 learners for plant expansion purposes in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 70 cents an hour for the first 320 hours and 78 cents an hour for the remaining 160 hours (supplemental certificate) (brassieres).

Playtex Caribe, Inc., Dorado, P.R.; effective 12-5-60 to 6-4-61; 180 learners for plant expansion purposes in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 70 cents an hour for the first 320 hours and 78 cents an hour for the remaining 160 hours (brassieres).

Porto Corp., Division "A", Utuado, P.R.; effective 11-15-60 to 11-14-61; 10 learners for normal labor turnover purposes in the occupations of: (1) sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours; (2) final inspection of fully assembled garments for a learning period of 160 hours at the rate of 57 cents an hour (men's and boys' T-shirts).

Porto Corp., Division "A", Utuado, P.R.; effective 11-15-60 to 5-14-61; 44 learners for plant expansion purposes in the occupations of: (1) sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours; (2) final inspection of fully assembled garments for a learning period of 160 hours at the rate of 57 cents an hour (men's and boys' T-shirts).

Porto Corp., Division "B", Arecibo, P.R.; effective 11-15-60 to 11-14-61; 5 learners for normal labor turnover purposes in the occupations of: (1) sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours; (2) final inspection of fully assembled garments for a learning period of 160 hours at the rate of 57 cents an hour (men's athletic shirts).

Porto Corp., Division "B", Arecibo, P.R.; effective 11-15-60 to 5-14-61; 25 learners for plant expansion purposes in the occupations of: (1) sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours; (2) final inspection of fully assembled garments for a learning period of 160 hours at the rate of 57 cents an hour (men's athletic shirts).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 16th day of December 1960.

ROBERT G. GRONEWALD,
Authorized Representative
of the Administrator.

[F.R. Doc. 60-11994; Filed, Dec. 27, 1960; 8:46 a.m.]

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FEDERAL REGISTER

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
OF THE UNITED STATES
1934

VOLUME 25 NUMBER 251

Washington, Wednesday, December 28, 1960

Title 41—PUBLIC CONTRACTS

Chapter 50—Division of Public Contracts, Department of Labor

PART 50-204—SAFETY AND HEALTH STANDARDS FOR FEDERAL SUPPLY CONTRACTS

The Walsh-Healey Public Contracts Act (49 Stat. 2036, 41 U.S.C. 35 et seq.) requires that contracts entered into by any agency of the United States for the manufacture or furnishing of materials, supplies, articles, and equipment in any amount exceeding \$10,000 must contain, among other provisions, a stipulation that no "part of such contract will be performed nor will any of the materials, supplies, articles, or equipment to be manufactured or furnished under said contract be manufactured or fabricated in any plants, factories, buildings or surroundings or under working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees engaged in the performance of said contract".

A single standard of safety and health conditions is thus required for all work subject to the Act. An objective description of the working conditions encountered, established by a preponderance of the reliable, probative, and substantial evidence, is, of course, essential to the administrative application of this standard. A second question which must be resolved is whether conditions of the type described are "unsanitary or hazardous or dangerous to the health or safety of employees". This is a question of fact. For assistance in its resolution, the act provides a special rule of evidence: "Compliance with the safety, sanitary, and factory inspection laws of the State in which the work or part thereof is to be performed shall be prima-facie evidence of compliance with this subsection."

The statutory provision concerning "prima-facie evidence" does not purport to take the place of the uniform national standard. It has application only to issues which require evidence. In the absence of opposing evidence, it authorizes resolution of such issues compatibly with the prima-facie evidence. Also, rules concerning prima-facie evidence obviously have no application in situa-

tions where evidence is not required. Where, therefore, the common experience of men is all that is needed to lead a rational and prudent person to the conclusion that certain conditions of employment are incompatible with the safety and health of employees, no defense is provided by the statutory "prima-facie evidence" rule merely because such conditions may not be specifically prohibited in the State safety, sanitary, and factory inspection laws, or the regulations hereby proposed. Neither is it necessary to call a witness to testify concerning the hazardous nature of such conditions.

The statutory rule of "prima-facie evidence" was not designed to deter the Secretary of Labor from diligent inquiry even beyond the safety, sanitary, and factory inspection laws of the several states to discover more directly what are the "working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees." This is demonstrated by the provisions in sections 4 and 5 of the Act, directing the Secretary to administer it and authorizing him to appoint experts, make investigations, hold hearings, compel the production of evidence, and make findings of fact. Accordingly, following enactment of the Act, experts were appointed and their testimony used in the administrative enforcement proceedings conducted under section 5 of the Act. Differences of opinion over what conditions of employment fail to meet the statutory standard have thus been resolved with the assistance of expert testimony on a case-by-case basis in nearly a quarter of a century of hearings and findings under the Act. These have been conducted in accordance with sections 5, 7, and 8 of the Administrative Procedure Act since its enactment.

The hazardous characteristic of a particular working condition, is, of course, the likelihood that it will cause illness, or injury in the employment situation. This characteristic is not always immediately apparent. Causative analysis of injury frequency rates in industry has shed much light on the importance of certain precautions not fully appreciated by those responsible for the operation of industrial establishments. The Department's discovery and evaluation of these hazards and the development of

the regulations herein promulgated has relied quite extensively on the outstanding contributions of the private and public organizations which are generally accepted as preeminent in this field. Among these are the publications of American Standards Association, Inc., American Society of Mechanical Engineers, National Fire Protection Association, National Board of Fire Underwriters, the Public Health Service of the United States Department of Health, Education, and Welfare, the Bureau of Mines of the United States Department of the Interior, and the Atomic Energy Commission.

Section 7(d) of the Administrative Procedure Act recognizes that, even in the most formal type of administrative adjudications, agency decision may rest on "official notice of a material fact not appearing in the evidence in the record," but it requires that "any party shall on timely request be afforded an opportunity to show the contrary". The Attorney General's Manual on the Administrative Procedure Act points out (p. 80) that this authority "extends properly to all matters as to which the agency by reason of its functions is presumed to be expert, such as technical or scientific facts within its specialized knowledge. Cf. H.R. Rep. p. 38 (Sen. Doc. p. 272). * * * The matters thus noticed become a part of the record and, unless successfully controverted, furnish the same basis for findings of fact as does 'evidence' in the usual sense."

The hazardous characteristics of many working conditions, thus being facts of a "technical or scientific" nature, and having come within the Department's "specialized knowledge" by reason of its experience, proof of them in administrative adjudications by official notice is appropriate. The facts declared in these regulations are soundly based in the experience of the Department and in the experience of outstanding public and private experts in their specialized divisions of the field of health and safety engineering. The regulations herewith promulgated extend, however, into areas in which reasonable men may differ. Any party to an administrative adjudication who is adversely affected by them will, therefore, have the opportunity to contest them by presenting the issue in

his responsive pleading and introducing such evidence as he will be able to muster for consideration at his hearing.

Publication of standards which will underline the enforcement policy of the agency which administers the Walsh-Healey Public Contracts Act will promote observance of the safety and health requirements by curtailing uncertainty on the part of those whose duty it is to comply. Such publication will permit the administrative adjudication of many safety and health cases without the necessity of calling an expert witness to the place of hearing to testify to the hazardous nature of the working conditions denounced in the regulations. Except in cases where a party gives notice of intent to challenge the safety standards expressed in the regulation at hearing, as provided in the regulations herein promulgated, this element of possible controversy, and occasion of possible variety in decision, will be eliminated. These are the considerations which prompt this use of the authority expressed in section 4 of the Walsh-Healey Public Contracts Act to make "such rules and regulations as may be necessary to carry out the provisions of this Act."

Radiation standards for inclusion in the regulations herein promulgated as amendments are currently being drafted. They will apply the recommendations of the Federal Radiation Council approved by the President for the guidance of federal agencies May 13, 1960 (25 F.R. 4402).

As these regulations are rules of agency procedure or practice delineating facts which will be officially noticed in enforcement proceedings under section 5 of the Act, notice of proposed rule making and public proceedings in their adoption are not required by subsections 4 (a) and (b) of the Administrative Procedure Act.

In accordance with section 4 of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 1003), therefore, and under the authority of section 4 of the Walsh-Healey Public Contracts Act (49 Stat. 2038, 41 U.S.C. 38), effective 30 days after publication in the FEDERAL REGISTER, a new Part 50-204—Safety and Health Standards for Federal Supply Contracts, is hereby added to 41 CFR, Chapter 50.

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AUTHORITY: §§ 50-204.1 to 50-204.300 issued under sec. 4, 49 Stat. 2038, 41 U.S.C. 38. Interpret or apply sec. 1, 49 Stat. 2036, 41 U.S.C. 85.

§ 50-204.1 Scope and application.

(a) The Walsh-Healey Public Contracts Act (40 Stat. 2036, 41 U.S.C. 35 et seq.) requires that contracts entered into by any agency of the United States for the manufacture or furnishing of materials, supplies, articles, and equipment in any amount exceeding \$10,000 must contain, among other provisions, a stipulation that "No part of such contract will be performed nor will any of the materials, supplies, articles, or equipment to be manufactured or furnished under said contract be manufactured or fabricated in any plants, factories, buildings or surroundings or under working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees engaged in the performance of the contract." This Part 50-204 of this chapter expresses certain

minimum safety and health standards which will be applied in the administration and enforcement of the Act, including proceedings under its section 5 and 41 CFR Part 50-203, Subpart A, to determine whether particular contracts subject to the Act are being, or have been, performed in compliance with its safety and health requirements.

(b) In all administrative, enforcement, and investigative proceedings conducted by the United States Department of Labor under the Act, official notice will be taken of the fact that failure to comply with the requirements expressed in this Part 50-204 of this chapter results in working conditions which are "unsanitary or hazardous to employees" within the meaning of section 1(e) of the Act, and contracts incorporating the stipulation it requires.

(c) In formal enforcement proceedings under section 5 of the Act, respondents will be permitted to demonstrate, by reliable, substantial, and probative evidence, that their failure to comply with the requirements expressed in Part 50-204 of this chapter did not result in working conditions which were "unsanitary or hazardous or dangerous to employees," but only if the answer to the complaint, filed under 41 CFR 50-203.3, makes express allegation to that effect, identifying the particular code unit challenged and setting out the factual basis for the challenge. In the event such issue is drawn, and reliable, substantial, and probative evidence is introduced in support of the challenge, the pertinent portions of the publications of the American Standards Association, Inc., American Society of Mechanical Engineers, National Fire Protection Association, National Board of Fire Underwriters, the Public Health Service of the United States Department of Health, Education, and Welfare, the Bureau of Mines of the United States Department of the Interior, and the Atomic Energy Commission will be considered, together with any other evidence that may be adduced in support of the regulation, on the issue whether the preponderance of the reliable, substantial, and probative evidence supports a finding that the working conditions prohibited in the regulation are unsanitary or hazardous or dangerous to the health and safety of employees.

(d) The standards expressed in Part 50-204 of this chapter are for application to ordinary employment situations, and do not preclude proof or recognition of the necessity of higher standards for employment situations of extraordinary hazard. Neither do the standards expressed in this Part 50-204 of this chapter purport to describe all of the working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees. Other working conditions may be found to be unsanitary or hazardous or dangerous to the health and safety of employees on evidence to that effect, or without such evidence, where such unsanitary or hazardous or dangerous characteristic should be apparent to a rational and prudent person of common experience.

(e) Compliance with the standards expressed in Part 50-204 of this chapter will not relieve anyone from any obligation to comply with any more strict standard stemming from any other source whatsoever.

BUILDINGS AND APPURTENANCES**§ 50-204.2 Buildings.**

Buildings and all appurtenances thereto, including bridges, towers, balconies, runways, and platforms, shall be structurally safe to prevent collapse.

§ 50-204.3 Floors.

(a) No floor or platform shall be so loaded as to have a factor of safety of less than four. That is, the weight placed upon a floor or platform shall not exceed one-fourth of the breaking strength of the platform or floor.

(b) Floors, other than those resting directly on solid ground, when used for heavy storage shall be clearly posted to show maximum safe floor loads.

(c) All floor surfaces shall be kept clean and dry and maintained in a smooth (free from holes or projections that might cause tripping and reasonably nonslippery) condition.

(d) Where the type of operation necessitates working on floor areas which would be otherwise wet or slippery, such areas shall be covered with mats, grates, cleats, or other high friction floor coverings.

(e) Safe means of access, suited to conditions, shall be provided to every overhead point to which employees are called upon to go in connection with their employment.

§ 50-204.4 Building egress.

(a) *Exits.* Not less than two means of egress (other than ladders or elevators) as remote from each other as possible, shall be provided on every floor, including basements and cellars of every building or section where persons are employed. On the street floor at least one of these shall be a door leading directly outside the building, and the other may be a door leading outside the building, or a standard horizontal exit. On upper floors and basements, one exit shall be an enclosed stairway or smoke-proof tower and the other or others may be inside stairways or horizontal exits or fire escape stairs.

(b) *Exit doors.* Doors shall swing in the direction of exit and open in such a manner as not to obstruct passageways or corridors used as ways of egress. No chairs or seats, fixtures, chutes, materials, or equipment shall block or in any way jeopardize the use of ways and means provided for egress. All exit doors and windows used as means of egress in case of fire or panic shall be so arranged as always to be opened readily from the inside. Locks on doors and windows, if provided, shall not require the use of a key to open.

(c) *Exit signs.* All exits or means of egress shall be provided with a sign having on it the word "EXIT" which shall be in letters at least five inches in height and plainly indicate to persons within the building the location of such egress.

Directional signs to the means of egress should be provided where necessary.

STAIRWAYS OR STEPS

§ 50-204.9 Stair width of treads and height of risers.

There shall be no variation in the width of treads and height of risers in any flight. Where variation in heights of risers in different flights is necessary on account of varying story heights, such variations shall not exceed $\frac{3}{16}$ inch. All treads shall be at least 10 inches wide.

§ 50-204.10 Stairway maintenance.

Every stairway or step shall be maintained in good repair, free from protruding bolts, screws, nails, dirt, or slippery conditions, and no storage shall be permitted on stairways.

§ 50-204.11 Treads.

Treads shall be renewed when the surface, including the nosing, shows wear to the extent of $\frac{1}{4}$ inch or more. All metal treads shall have a surface which will reasonably prevent slipping.

§ 50-204.12 Stairway railings and handrails.

Every flight of stairs having four or more risers shall be equipped with a stair railing or handrails constructed to conform to the requirements of sections 50-204.28 and 50-204.29 under the following conditions:

(a) On stairways of width less than 44 inches and having both sides enclosed—at least one handrail on the right side descending.

(b) On stairways of width less than 44 inches and having one side open—at least one stair railing that shall be on the open side.

(c) On stairways of width less than 44 inches and having both sides open—one stair railing on each side.

(d) On stairways of width 44 inches or more but less than 88 inches—one handrail on each enclosed side and one stair railing on each open side.

(e) On stairways 88 inches or more in width—one handrail on each enclosed side, one stair railing on each open side and one intermediate stair railing located approximately midway of the width.

(f) Winding stairs shall be equipped with a handrail so offset as to prevent walking on any portions of the treads having width less than 6 inches.

GUARDING OF FLOOR OPENINGS AND FLOOR HOLES

§ 50-204.17 Stairway floor openings.

A railing constructed to conform to the requirements of sections 50-204.28 and 50-204.29 shall be provided on all exposed sides of stairway floor openings (except at entrance to stairway). Standard toe boards shall be provided also, except in stair towers.

§ 50-204.18 Ladderway floor openings.

Every ladderway floor opening shall be guarded by a standard railing with standard toe board on all exposed sides, except at entrance to opening.

§ 50-204.19 Hatchway and chute floor.

Every hatchway and chute floor opening shall be guarded either by:

(a) Hinged floor-opening cover of standard strength and construction equipped with railing constructed in accordance with sections 50-204.27 and 50-204.29 so as to leave no exposed side. When the opening is not in use the cover shall be closed.

(b) A removable railing with toe boards on not more than two sides of the opening and permanent railings with toe boards on all other exposed sides both constructed in accordance with sections 50-204.27 and 50-204.29. The removable railings shall be kept in place when the opening is not in use.

(c) Where operating conditions necessitate the feeding of material into any hatchway or chute opening from all sides, the guarding requirements will be satisfied if bars, chains, or other adequate protection is provided to prevent a person from falling through the opening.

§ 50-204.20 Floor hole.

Every floor hole except those described in sections 50-204.17, 50-204.18, 50-204.19 shall be guarded either by:

(a) A railing constructed in conformance with the requirement in sections 50-204.27 and 50-204.29 with standard toe board on all exposed sides; or

(b) A floor opening cover, hinged in place. While the cover is open, floor holes shall be constantly attended by someone or shall be protected by a portable enclosing railing.

GUARDING OF OPEN-SIDED FLOORS, PLATFORMS AND RUNWAYS

§ 50-204.25 Open-sided floor and platform.

(a) Every open-sided floor shall be guarded by a railing constructed in accordance with sections 50-204.27 and 50-204.29 on all open sides 5 feet or more above the adjacent floor or ground level, except where there is entrance to a ramp, stairway or fixed ladder. The railing shall be provided with a toe board wherever, beneath the open sides,

(1) Persons can pass,

(2) There is moving machinery, or

(3) There is equipment with which falling materials could create a hazard.

(b) The intermediate railing and toe board required by sections 50-204.27 and 50-204.29 may be omitted where materials have to be regularly passed over the edge of the floor (as in lumber storage), or where the railing is set back 12 inches or more from the edge.

(c) The entire railing may be temporarily removed from particular sections of open-sided floors where regular operating conditions make a permanent railing wholly impracticable.

§ 50-204.26 Runway guarding.

Every runway shall be guarded by a railing constructed in accordance with sections 50-204.27 and 50-204.29 on all open sides 5 feet or more above floor or ground level. Wherever tools, machine parts or materials are likely to be used on the runway, a toe board shall also be provided on each exposed side.

(a) Runways, used exclusively for special purposes (such as oiling, shafting or filling tank cars), may have the railing on one side omitted where operating conditions necessitate such omission, providing there is no falling hazard.

RAILINGS AND GUARDS

§ 50-204.27 Standard railing.

A standard railing shall consist of top rail, intermediate rail and posts, having a vertical height of 42 inches from upper surface of top rail to floor, platform, runway or ramp level. The top rail shall be smooth surfaced throughout the length of the railing. The intermediate rail shall be approximately halfway between the top rail and floor, platform, runway or ramp. The ends of the rails shall not overhang the terminal posts except where such overhang does not constitute a projection hazard.

§ 50-204.28 Stair railing.

A stair railing shall be of construction similar to a standard railing but the vertical height shall be not more than 34 inches nor less than 30 inches from upper surface of top rail to surface of tread in line with face of riser at forward edge of tread.

(a) Intermediate rails shall not be required where stairways are 22 inches or less in width.

§ 50-204.29 Strength of standard railing and stair railing.

The strength of standard railings and stair railings under different types of construction is specified as follows:

(a) Wood railing: For wood railings, the posts shall be of at least 2 inch by 4 inch stock spaced not to exceed 8 feet; the top rails shall be of at least 2 inch by 4 inch stock or of two right angle pieces of at least 1 inch by 4 inch stock and the intermediate rails shall be of at least 2 inch by 2 inch stock or of at least 1 inch by 4 inch stock.

(b) Pipe railing: For pipe railings, the posts and top rails shall be metal pipe of at least $1\frac{1}{4}$ inches inside diameter and the intermediate rails shall be metal pipe of at least 1 inch inside diameter. The spacing of posts shall not exceed 8 feet.

(c) Structural metal railings: For structural metal railings, the posts and top rails shall be angle iron of at least $1\frac{1}{2}$ inches by $1\frac{1}{2}$ inches by $\frac{3}{16}$ inch or other structural shapes of equivalent bending strength; and the intermediate rails shall be angle iron of at least $1\frac{1}{4}$ inches by $1\frac{1}{4}$ inches by $\frac{1}{8}$ inch or other structural shapes of equivalent bending strength. The spacing of posts shall not exceed 8 feet.

(d) Anchor posts: The anchoring of posts and framing of members for railings of all types shall be of such construction that the completed structure shall be capable of withstanding a load of at least 200 pounds applied in any direction at any point of the top rail.

(e) Toe board: A toe board shall be 4 inches in vertical height from top edge to the level of the floor, platform, runway, or ramp. It shall be securely fastened in place and with not more than $\frac{1}{4}$ inch clearance above floor level. It may be made of any substantial material

either solid or with openings not over 1 inch in length.

ELEVATORS

§ 50-204.34 Elevator inspection.

Elevator inspection by a competent elevator inspection service or maintenance contract on an annual basis will be acceptable as evidence of satisfactory installation and maintenance.

§ 50-204.35 Hoistways.

All hoistway openings at the floor level to the elevator shall be protected by doors or gates either manually or mechanically operated, and interlocked with the elevator control so that it is impossible to start the elevator until the door or gate is locked in the closed position, and also so that it is impossible to open the door or gate when the car is not at the landing.

§ 50-204.36 Under car safety device.

All elevators other than hydraulic elevators shall be equipped with an under car safety device operated by speed governor control that will hold the elevator in case of cable failure or over speeding.

§ 50-204.37 Hatch limit controls.

All types of elevators shall be equipped with upper and lower travel limit devices that will normally bring the car to rest at either terminal, and a final limit switch that will prevent the movement in either direction if opened by the car as the result of excessive over travel in either direction.

ILLUMINATION

§ 50-204.42 Minimum standards.

(a) Illumination shall be provided and distributed to all working areas as required in these regulations.

(b) Seeing tasks requiring discrimination of fine detail under conditions of fair contrast and where the nature of the work is very exacting and prolonged shall be provided with a minimum of 100 foot-candles of illumination.

(c) Seeing tasks requiring discrimination of detail over prolonged periods of time and under conditions of moderate contrast shall be provided with a minimum of 50 foot-candles of illumination.

(d) Seeing tasks requiring moderate discrimination of detail over intermittent periods of time and under conditions of normal contrast shall be provided with a minimum of 30 foot-candles of illumination.

(e) Casual seeing tasks not involving discrimination of fine detail shall be provided with a minimum of 10 foot-candles of illumination.

(f) Rough seeing tasks not requiring critical seeing shall be provided with a minimum of 5 foot-candles of illumination.

LADDERS

§ 50-204.47 Construction and use of portable ladders.

Portable ladders shall be substantially built, set level and well secured.

§ 50-204.48 Rails of portable ladders.

Rails of portable ladders shall always project at least three feet above working level and shall be of sound material.

§ 50-204.49 Painting of wooden ladders.

Wooden ladders shall not be painted, as painting covers up defects. Linseed oil or oil stain shall be used instead.

§ 50-204.50 Stepladders.

All stepladders shall be provided with an automatic locking device or spreader of not more than 40 degrees to hold the front and back sections in open position.

§ 50-204.51 Fixed ladders.

(a) Rest platforms: If fixed ladders are used to ascend to heights exceeding 30 feet, a landing or rest platform shall be provided for each 30 feet or fraction thereof unless the ladder is provided with safety cages.

(b) Rails: Rails of fixed ladders to landings shall extend a distance of at least 3 feet above the landing.

(c) Rungs: The rungs may be omitted above the landing. Where an employee must step a greater distance than 14 inches from the ladder to roof, tank, hoist, etc., a landing shall be provided.

(d) Guard rails: All fixed ladder landings shall be equipped with a standard guard rail and toe boards, so arranged as to give the safest possible access to the ladder. Such platforms shall not be less than 24 inches in width.

AISLES AND PASSAGEWAYS

§ 50-204.56 Maintenance.

Permanent aisles and passageways shall be kept clear and in good repair, with no obstructions across or in aisles that might cause tripping. Where, due to lack of proper identification, aisles and passageways are likely to become hazardous, they shall be clearly defined by painted lines, curbing, or other methods of marking.

§ 50-204.57 Aisle widths.

Where industrial trucks are in customary use, one-way traffic aisles shall be at least 2 feet wider than the widest vehicle. Two-way aisles shall be at least 3 feet wider than twice the width of the widest vehicle.

MATERIAL STORAGE

§ 50-204.62 Height.

(a) All material in bags, containers, or bundles, stored in tiers, shall be stacked, blocked, interlocked, and limited in height so that it is stable, so that it is secure against sliding or collapse.

(b) Where automatic sprinkler protection is provided, clearance of at least 18 inches shall be maintained between the tops of materials and the underside of lowest beams or other overhead structures. Where reliance is placed on hose streams, clearance of at least 3 feet shall be maintained between the tops of piles and the underside of the lowest beams, girders, or other obstructions which restrict the play of hose streams over the material.

§ 50-204.63 Small articles.

Small articles shall be stored in containers suitable to the material, such as small cans or trays that can be stacked.

§ 50-204.64 Pipe and other long stock.

Pipe and other long stock shall be stored in suitable racks or blocked to prevent spreading or rolling. Projecting ends shall be protected by location, railings, or barriers.

§ 50-204.65 Hazardous chemicals.

Hazardous chemicals shall be distinctively marked to indicate their nature and stored in containers or locations suitable to the material.

§ 50-204.66 Gases in cylinders.

(a) Cylinders shall be supported in an upright position so as to prevent them from falling or rolling.

(b) Cylinders shall be kept away from excessive heat, such as the direct rays of the sun.

(c) Cylinders shall be stored away from combustible materials.

(d) Empty cylinders shall be plainly marked "EMPTY," and the valves shall be closed. The empty cylinders shall be segregated from the full cylinders and returned to the supplier as soon as practicable.

(e) Valve covers shall be kept in place at all times when the cylinder is not in use.

OUTDOOR STORAGE

§ 50-204.71 Aisle spacing.

Aisles shall be maintained between piles, between buildings, and between piles and the boundary of the storage site. Aisles shall be wide so as to reduce the danger of spread of fire from pile to pile and to permit ready access for fire fighting or emergency removal of material.

§ 50-204.72 Housekeeping.

The entire storage site shall be kept free from unnecessary accumulations of combustible materials. Weeds and grass shall be kept down and the area kept clean.

§ 50-204.73 Drainage.

Proper drainage shall be provided.

§ 50-204.74 Clearance signs.

Clearance signs to warn of clearance limits shall be provided.

§ 50-204.75 Derail and bumper blocks.

Derail and bumper blocks shall be provided on spur tracks.

§ 50-204.76 Traffic control signs.

Traffic control signs to warn pedestrian, vehicular, and railroad traffic shall be provided.

§ 50-204.77 Open pits, tanks, vats, ditches, etc.

Covers or guard rails shall be provided to protect all open pits, tanks, vats, ditches, etc. near which people are regularly employed.

FLAMMABLE LIQUIDS

§ 50-204.82 Sources of ignition.

All sources of ignition shall be prohibited in areas where flammable liquids are stored, handled, and processed. Suitable warning and "No Smoking" signs shall be posted in all such areas.

§ 50-204.83 Vegetation removal.

The areas where flammable liquids are stored, handled, or processed shall be left clear of rubbish, brush, long grass, or other combustible material at all times.

§ 50-204.84 Housekeeping.

Accumulations of flammable liquids on floors, walls, and other surfaces, are prohibited. All spills of flammable liquids shall be cleaned up immediately.

§ 50-204.85 Electrical lighting.

Electrical lighting shall be the only means used for artificial illumination in areas where flammable liquids, vapors, fumes, dust, or gases are present. All electrical equipment and installations shall be of the explosion proof type.

§ 50-204.86 Ventilation.

All buildings, rooms and compartments where flammable liquids are stored, processed, or used shall be properly ventilated to prevent accumulation of flammable vapors.

§ 50-204.87 Refuse storage.

In buildings, shops, or rooms where flammable liquids are handled or stored, a self-closing metal refuse can shall be provided and maintained in good condition.

§ 50-204.88 Open flame devices prohibited.

Open flame heating devices shall not be used in areas where flammable liquids are present.

§ 50-204.89 Bonding and grounding.

Storage tanks and systems shall be electrically bonded and grounded.

§ 50-204.90 Relief vents.

Storage tanks shall be equipped with proper relief vents. Tank vents shall not be located close to open flames, stacks, heating apparatus, or any other source of ignition. Vent screens shall not be painted.

§ 50-204.91 Storage in other than flammable storage buildings.

A ventilated steel cabinet or a cabinet lined with noncombustible material shall be provided for the storage of more than a total of 10 gallons of flammable liquids in buildings used for other than storage. Not more than a total of 50 gallons shall be stored in any one cabinet, nor shall any individual container exceed 5 gallon capacity in such a cabinet. Containers must be of metal and kept tightly closed. Storage in drums of over 50 gallons of flammable liquids shall be outside the work room.

§ 50-204.92 Safety containers.

Handling of all flammable liquids by hand containers shall be in approved type safety containers substantially constructed to avoid the danger of leakage and designed to minimize the likelihood of spilling.

PAINTS AND PAINTING**§ 50-204.97 Storage of paints, varnishes, lacquers, thinners, etc.**

Packages containing paints, varnishes, lacquers, thinners, or other volatile

materials shall be kept tightly closed when not in actual use.

§ 50-204.98 Storage locations.

Sealed containers of paints, varnishes, lacquers, thinners, and other flammable paint materials, shall be kept in a well-ventilated location, free from excessive heat, smoke, sparks, flame, or direct rays of the sun.

§ 50-204.99 Storage of flammable paint materials in opened containers.

Flammable paint materials, when in excess of 10 gallons and not exceeding 50 gallons, shall be stored in a ventilated steel cabinet, or a cabinet lined with noncombustible material. Containers shall be kept tightly closed when not in use.

§ 50-204.100 Paint-soiled clothing and drop cloth.

Paint-soiled clothing and drop cloths, when not in use, shall be stored in well-ventilated steel cabinets.

§ 50-204.101 Housekeeping.

Paint scrapings and paint saturated debris shall be removed from the premises daily.

§ 50-204.102 Ventilation of harmful substances.

Ventilation adequate to reduce the concentration of harmful substances in the atmosphere shall be provided, as referred to in section 50-204.86.

§ 50-204.103 Ventilation of flammable vapors.

Ventilation adequate to prevent the accumulation of flammable vapors to hazardous levels of concentration shall be provided in all areas where spray painting, dipping or similar processes are performed.

§ 50-204.104 Smoking or open flames prohibited.

No smoking, open flame, exposed flame heating elements, or other sources of ignition of any kind shall be permitted in areas or rooms where spray painting, paint dipping or similar processes are done.

§ 50-204.105 Electrical equipment.

When electric lights, switches, or electrical equipment are necessary where indoor spray painting, paint dipping or similar processes are performed, they shall be of the explosion-proof type.

§ 50-204.106 Electric motors.

Electric motors driving exhaust fans shall not be placed inside booths or ducts exhausting flammable materials.

§ 50-204.107 Enclosure driving belts.

Belts shall not enter duct or booth exhausting flammable materials unless belt and pulley within the duct or booth are thoroughly enclosed.

§ 50-204.108 Storage of combustible and flammable cleaning materials.

Combustible and flammable cleaning materials at the establishment shall be stored in tightly closed metal containers.

FIRE PREVENTION**§ 50-204.113 Equipment general.**

Fire fighting equipment suitable to the conditions and hazards involved shall be provided and maintained in an effective operating condition. A systematic inspection of these devices is required.

§ 50-204.114 First-aid fire fighting extinguishers, general rules.

The following general rules shall be applied to all types of first-aid fire extinguishers:

(a) Persons who may have occasion to use any fire extinguisher shall have knowledge of the proper way to use the device effectively.

(b) The instructions of the manufacturer of the extinguisher as to charging, maintenance and operations shall be followed exactly. All extinguishers shall be examined at least once a year to determine positively that they are in operating condition.

(c) Frequent inspections shall be made to determine that extinguishers are in their designated places, are readily accessible, have not been damaged or tampered with, and that nozzles are not clogged.

§ 50-204.115 Classification of extinguishers.

Listed below are various classes of fires and the extinguishing equipment which shall be maintained appurtenant to the various materials identified.

(a) *Class "A" Fires.* Fires in ordinary combustible materials where the quenching and cooling effects of quantities of water or solutions containing large percentage of water are of first importance. Required extinguishing equipment—soda and acid, pump tank extinguishers or water barrels and buckets.

(b) *Class "B" Fires.* Fires in flammable liquids, greases, and similar materials, where blanketing effect is essential. Required extinguishing equipment—foam, carbon tetrachloride, CO₂, dry powder type extinguishers, or sand buckets and scoops. Carbon tetrachloride extinguishers shall not be used in a confined area.

(c) *Class "C" Fires.* Fire in electrical equipment where the use of nonconducting extinguishing agent is of first importance. Required extinguishing equipment—CO₂, or dry powder pressure-type extinguishers.

PRESSURE VESSELS**§ 50-204.120 Boilers.**

Boiler inspection and approval on an annual basis by a recognized boiler inspection service will be acceptable evidence of satisfactory installation and maintenance.

§ 50-204.121 Steam cookers, digester, glue pots, etc.

All pressure vessels to which steam is supplied from an outside source shall be designed for the maximum line pressure to which the vessel will be subjected. On such vessels it is required that, in addition to the necessary pressure reducing valve, a safety valve be installed on the vessel itself or on the line between

it and the pressure reducer. There shall be no means of cutting off or bypassing this safety valve. Inspection and adequate maintenance of the vessel, including regular testing of the safety valve, are mandatory.

§ 50-204.122 Unfired pressure vessels.

(a) Air receivers shall be so installed that all drains, handholes, and manholes therein are easily accessible.

(b) Air receivers shall be supported with sufficient clearance to permit a complete external inspection and to avoid corrosion of external surfaces.

(c) Under no circumstances shall air receivers be buried underground or located in an inaccessible place.

(d) The receiver shall be located as close to the compressor or aftercooler as is possible to keep the discharge short.

(e) The receiver shall be located in a cool place to facilitate the condensation of moisture and oil vapors.

TOOLS AND EQUIPMENT

§ 50-204.127 Maintenance.

Each employer shall be responsible for the safe condition of the tools used by his employees, whether furnished by him or by them, and be sure that such tools are suited by safe design and construction for the work to be done.

§ 50-204.128 Portable electric power tools.

(a) Electric power tools showing worn, deteriorated or inadequate insulation, split or chipped plugs, worn or bent plugs, terminals, defective switch, shall be repaired.

(b) Portable electric power tools shall be effectively grounded to maintain at all times an effective ground on the non-current carrying parts of the tools.

§ 50-204.129 Portable pneumatic tools.

(a) The operating trigger on portable hand-operated pneumatic equipment shall be so located as to minimize the possibility of accidental operation and shall be arranged to close the air inlet valve automatically when the pressure of the operator's hand is removed.

(b) A tool retainer shall be installed on each piece of pneumatic equipment which, without such a retainer, may eject the tool.

(c) No tool change or work other than regular operations shall be made or done on any piece of portable hand-operated pneumatic equipment unless the stop valve in the air line supplying that equipment is closed.

§ 50-204.130 Cables, ropes, and chains.

(a) Chains, ropes, cables, hooks, rings, slings, and other devices and accessories used for hoisting and lifting shall not be subjected to greater working loads than recommended by their manufacturers. They shall be frequently inspected and shall be renewed when inspection reveals unsafe conditions.

(b) Bolts or nails shall not be used to connect, splice, or shorten chains. Knots shall not be tied in the chain.

(c) A hoist cable shall be considered unsafe and shall be replaced when upon inspection 10 percent or more of the total number of wires are broken in a length

equal to eight diameters of the cable, or when the wires on the crown of the strand are worn down to less than 60 percent of their original diameter.

(d) Crane hoist cable shall be lubricated and inspected at frequent intervals.

VENTILATION AND PROTECTION IN WELDING AND CUTTING

§ 50-204.135 Welding and cutting in confined spaces.

For the purpose of this section a confined space shall mean:

(a) A space of less than 10,000 cubic feet per welder, or

(b) A space having an overhead height of less than 16 feet, or

(c) A space in which there are structural barriers to the extent that they significantly obstruct cross ventilation.

§ 50-204.136 Ventilation in confined spaces.

All welding and cutting operations carried on in confined spaces shall be adequately mechanically ventilated to prevent the accumulation of toxic gases or possible oxygen deficiency or air supplied respirators approved by the U.S. Bureau of Mines shall be provided to the welder and all other personnel in the immediate vicinity.

§ 50-204.137 Mechanical ventilation.

Mechanical ventilation shall consist of either general ventilation systems or local exhaust systems.

(a) General ventilation shall be at the minimum rate of 2,000 cubic feet per minute per welder.

(b) Local exhaust shall consist of freely movable hoods intended to be placed by the welder as near as practicable to the work being welded and provided with a rate of air flow sufficient to maintain a velocity in the direction of the hood of 100 linear feet per minute in the zone of welding when the hood is at its most remote distance from the point of welding.

§ 50-204.138 Welding and cutting involving metals of toxic significance.

(a) Welding and cutting involving the following metals whether or not in confined spaces or in other enclosed spaces shall be done in accordance with the provisions of sections 204.136 and 204.137.

(1) Zinc-bearing base of filler metals or metals coated with zinc-bearing materials.

(2) Lead base metals.

(3) Cadmium-bearing filler materials.

(b) Welding or cutting involving the following metals in confined spaces shall be done using local exhaust ventilation or air-line respirators approved by the U.S. Bureau of Mines.

(1) Metals containing lead, other than as an impurity, or metals coated with lead-bearing materials, including paint.

(2) Cadmium-bearing or cadmium-coated base metals.

(3) Metals coated with mercury-bearing metals, including paint.

(4) Beryllium-containing base or filler metals. Because of its high toxicity, work involving beryllium shall be done with both local exhaust ventilation and air-line respirators.

§ 50-204.139 Protection to other employees.

In all cases employees in the immediate vicinity of welding operations shall be protected in accordance with sections 50-204.269 and 50-204.298.

§ 50-204.140 Inert-gas metal-arc welding.

Since the inert-gas metal-arc welding process involves the production of ultraviolet radiation of intensities five to thirty times that produced during shielded metal-arc welding, the decomposition of chlorinated solvents by ultraviolet rays, and the liberation of toxic fumes and gases, employees shall not be permitted to engage in, or be exposed to the process unless:

(a) The use of chlorinated solvents is kept at least 200 feet from the exposed arc; surfaces prepared with chlorinated solvents are thoroughly dry before welding is permitted on such surface.

(b) Shaded goggles with side shields are worn by helpers and others in the area not protected from the arc by screening.

(c) Protective clothing is worn by welders and others within the area exposed to radiation so that the skin is covered completely to prevent burns and other damage by ultraviolet rays; shirts worn are dark in color to reduce reflection to the face from underneath the helmet; exposed cotton clothing is covered since it disintegrates rapidly when exposed to high intensities of ultraviolet rays; welding helmets and hand shields are free of leaks and openings, and free of highly reflective surfaces.

(d) Local exhaust ventilation or supplied air respirators are provided in all cases when doing inert-gas metal-arc welding of stainless steel to protect against dangerous concentrations of nitrogen dioxide.

§ 50-204.141 General welding and cutting.

Welding and cutting not involving conditions or materials described in sections 50-204.135 and 50-204.138 may normally be done without special precautions, but where, because of unusual physical or atmospheric conditions, a harmful accumulation of contaminants would exist, mechanical ventilation or suitable respiratory protective equipment shall be provided.

ELECTRICAL INSTALLATION AND EQUIPMENT

§ 50-204.143 Electrical installation and equipment.

Electrical conductors and equipment installed within or on buildings and other premises and the conductors that connect the installation to a supply of electricity and other outside conductors adjacent to the premises shall conform to the minimum requirements of the National Electrical Code, 1959 Edition, National Fire Protection Association.

MECHANICAL POWER TRANSMISSION APPARATUS

§ 50-204.153 Flywheels.

Flywheels located so that any part is 7 feet or less above floor or platform shall be guarded in one of the following ways:

(a) With an enclosure of sheet, perforated, or expanded metal, or woven wire. For standards, see sections 50-204.179 and 50-204.180.

(b) With guard rails placed not less than 15 inches nor more than 20 inches from rim. When flywheel extends into pit or is within 12 inches of floor, a standard toe board shall also be provided. For standards, see section 50-204.185.

(c) An adjustable guard to be used for starting the engine or for running adjustment may be provided at the flywheel of gas or oil engines. A slot opening for the jack bar will be permitted.

(d) Wherever flywheels are above working areas, guards shall be installed having sufficient strength to hold the weight of the flywheel in the event of a shaft or wheel mounting failure.

§ 50-204.154 Cranks and connecting rods.

Cranks and connecting rods, when exposed to contact, shall be guarded in accordance with sections 50-204.179 and 50-204.180 or by a guard rail as described in section 50-204.185.

§ 50-204.155 Tail rods or extension piston rods.

Tail rods or extension piston rods shall be guarded in accordance with sections 50-204.179 and 50-204.181 or by a guard rail on sides and end, with a clearance of not less than 15 nor more than 20 inches when rod is fully extended.

§ 50-204.156 Governor balls.

Governor balls 6 feet or less from the floor or other working level, when exposed to contact shall be provided with an enclosure extending to the top of the governors balls when at their highest position. The material used in the construction of this enclosure shall conform to sections 50-204.179 and 50-204.181.

§ 50-204.157 Shafting installation.

(a) Each continuous line of shafting shall be secured in a position against excessive end-wise movement.

(b) Inclined and vertical shafts, particularly inclined idler shafts, shall be securely held in position against endwise thrust.

§ 50-204.158 Guarding horizontal shafting.

(a) All exposed parts of horizontal shafting 7 feet or less from floor or working platform, excepting runways used exclusively for oiling, or running adjustments, shall be protected by a stationary casing enclosing shafting completely or by a trough enclosing sides and top or sides and bottom of shafting as location requires.

(b) Wherever shafting extends over a driveway, it shall be protected as stated above unless it is located 15 feet or more above driveway.

(c) Shafting under bench machines shall be enclosed by a stationary casing, or by a trough at sides and top or sides and bottom, as location requires. The sides of the trough shall come within at least 6 inches of the underside of table, or if shafting is located near floor, within 6 inches of floor. In every case the

sides of the trough shall extend at least 2 inches beyond the shafting or protuberance. For requirements regarding materials and construction, see sections 50-204.179 and 50-204.181.

§ 50-204.159 Guarding vertical and inclined shafting.

Vertical and inclined shafting 7 feet or less from floor or working platform, excepting maintenance runways, shall be enclosed with a stationary casing in accordance with requirements of sections 50-204.179 and 50-204.181.

§ 50-204.160 Projecting shaft ends.

(a) Projecting shaft ends shall present a smooth edge and end and shall not project more than one-half the diameter of the shaft unless guarded by nonrotating caps or safety sleeves.

(b) Unused key-ways shall be filled up or covered.

§ 50-204.161 Power-transmission apparatus located in basements.

All mechanical power transmission apparatus located in basements, towers, and rooms used exclusively for power transmission equipment shall be guarded in accordance with these standards, except that the requirements for safeguarding belts, pulleys, and shafting may be omitted if the following conditions are met:

(a) The basement, tower, or room occupied by transmission equipment is locked against unauthorized entrance.

(b) The vertical clearance in passageways between the floor and power transmission beams, ceiling, or any other objects, is not less than 5 feet 6 inches.

(c) The footing is dry, firm, and level.

(d) The route followed by the oiler is protected in such manner as to prevent accidents.

§ 50-204.162 Pulleys.

Any parts of which are 7 feet or less from the floor or working platform shall be guarded in accordance with the standards specified under section 50-204.179 and 50-204.181. Pulleys serving as balance wheels (e.g., punch presses) on which the point of contact between belt and pulley is more than 6 feet 6 inches from the floor or platform may be guarded with a disk covering the spokes. See section 50-204.180.

§ 50-204.163 Horizontal belts, ropes and chain drives.

(a) Where both runs of horizontal belts are 7 feet or less from the floor level, the guard shall extend to at least fifteen inches above the belt or to a standard height (see table, section 50-204.181) except that where both runs of a horizontal belt are 42 inches or less from the floor, the belt shall be fully enclosed in accordance with sections 50-204.179 and 50-204.181. In power plants or power-development rooms, a guard rail may be used in lieu of the requirement in section 50-204.163.

(b) Overhead horizontal belts, with lower part 7 feet or less from the floor or platform, shall be guarded on sides and bottom in accordance with section 50-204.183.

(c) Horizontal overhead belts more than 7 feet above floor or platform shall be guarded for their entire length under the following conditions:

(1) If located over passageways or work places and traveling 1800 feet or more per minute.

(2) If center to center distance between pulleys is 10 feet or more.

(3) If belt is 8 inches or more in width. For detail of guard construction and for sizes of material see section 50-204.183 and table following section 50-204.184.

(d) Where the upper and lower runs of horizontal belts are so located that passage of persons between them would be possible, the passage shall be either:

(1) Completely barred by a guard rail or other barrier in accordance with sections 50-204.179 and 50-204.181, or

(2) Where passage is regarded as necessary, there shall be a platform over the lower run guarded on either side by a railing completely filled in with wire mesh or other filler, or by a solid barrier. The upper run shall be so guarded as to prevent contact therewith either by the worker or by objects carried by him. In power plants, only the lower run of the belt need be guarded.

§ 50-204.164 Overhead chain and link belt drives.

Overhead chain and link belt drives are governed by the same rules as overhead horizontal belts and shall be guarded in the same manner as belts (section 50-204.163).

§ 50-204.165 Vertical and inclined belts.

(a) Vertical and inclined belts shall be enclosed by a guard conforming to standards in sections 50-204.179 and 50-204.181.

(b) All guards for inclined belts shall be arranged in such a manner that a minimum clearance of 7 feet is maintained between belt and floor at any point outside of guard.

§ 50-204.166 Vertical belts.

Vertical belts running over a lower pulley more than 7 feet above floor or platform shall be guarded at the bottom in the same manner as horizontal overhead belts, if conditions are such as stated in section 50-204.163(c) (1), (2), and (3).

§ 50-204.167 Cone-pulley belts.

(a) The cone belt and pulley shall be equipped with a belt shifter so constructed as to guard adequately the nip-point of the belt and pulley. If the frame of the belt shifter does not adequately guard the nip-point of the belt and pulley, the nip-point shall be further protected by means of a vertical guard placed in front of the pulley and extending at least to the top of the largest step of the cone.

(b) If the belt is of the endless type or laced with rawhide laces, and a belt shifter is not desired, the nip-point of the belt pulley shall be protected by a nip-point guard located in front of the cone extending at least to the top of the largest step of the cone, and formed to show the contour of the cone in order

to give the nip-point of the belt and pulley the maximum protection.

(c) If the cone is located less than 3 feet from the floor or working platform, the cone pulley and belt shall be guarded to a height of 3 feet regardless of whether the belt is endless or laced with rawhide.

§ 50-204.163 Gears.

Gears shall be guarded in accordance with one of the following specifications:

(a) A complete enclosure.

(b) A standard guard as described in section 204.181 at least 7 feet high extending 6 inches above the mesh point of the gears.

(c) By a band guard covering the face of the gear and having flanges extended inward beyond the root of the teeth on the exposed side or sides. Where any portion of the train of gears guarded by a band guard is less than 6 feet from the floor a disk guard or a complete enclosure to the height of 6 feet shall be required.

§ 50-204.169 Sprockets and chains.

All sprocket wheels and chains shall be enclosed unless more than 7 feet above the floor or platform. Where the drive extends over other machines or working areas, protection against falling shall be provided.

§ 50-204.170 Openings for oiling.

When frequent oiling must be made, openings with hinged or sliding self-closing covers shall be provided. All points not readily accessible shall have oil feed tubes if lubricant is to be added while machinery is in motion.

§ 50-204.171 Friction drives.

(a) The driving point of all friction drives when exposed to contact shall be guarded.

(b) All arm or spoke friction drives and all web friction drives with holes in the web shall be entirely enclosed.

(c) All projecting bolts on friction drives where exposed to contact shall be guarded.

§ 50-204.172 Keys, set screws, and other projections.

All projecting keys, set screws and other projections in revolving parts shall be removed or made flush or guarded by metal covers. This does not apply to keys or set screws within gear or sprocket casings or other enclosures, nor to keys, set screws, or oil cups in hubs of pulleys less than twenty inches in diameter where they are within the plane of the rim of the pulley.

§ 50-204.173 Collars.

All revolving collars, including split collars, shall be cylindrical, and screws or bolts used in collars shall not project beyond the largest periphery of the collar.

§ 50-204.174 Couplings.

(a) Shaft couplings shall be so constructed as to present no hazard from bolts, nuts, set screws, or revolving surfaces.

(b) Bolts, nuts, and set screws will, however, be permitted where they are

covered with safety sleeves or where they are used parallel with the shafting and are countersunk or else do not extend beyond the flange of the coupling.

GUARD STANDARDS FOR MECHANICAL POWER TRANSMISSION

§ 50-204.179 Materials.

(a) Standard conditions will be secured by the use of the following materials: Expanded metal, perforated or solid metal or wire mesh on a frame of angle iron or iron pipe securely fastened to floor or to frame of machine (see section 50-204.181).

(1) All metal shall be free from burrs and sharp edges.

(2) Wire mesh shall be of the type in which the wires are securely fastened at every cross point either by welding, soldering, or galvanizing, except in case of diamond or square wire mesh made of No. 14 gauge wire, $\frac{3}{4}$ inch mesh or heavier.

(b) Design of guards:

(1) Where it is necessary to change belts, make adjustments or apply oil or grease, guards shall have hinged sections or be removable.

(2) Guards shall be designed so as not to interfere with the usual machine operations, but give the maximum protection to the operator.

(c) Methods of manufacture:

(1) Filler material shall be expanded metal, sheet or perforated metal, or wire mesh and be securely fastened to frame.

(2) By welding to frame every 4 inches. By weaving through channel or angle frame, or if No. 14 gauge $\frac{3}{4}$ inch mesh or heavier is used, by bending entirely around rod frames.

(3) Where openings in pipe railing are to be filled in with expanded metal, wire or sheet metal, the filler material shall be made into panels with rolled edges or bound with "V" or "U" edging of No. 24 gauge or heavier sheet metal fastened to the panels with bolts or rivets spaced not more than 5 inches center to center. The bound panels shall be fastened to the railing by sheet-metal clips spaced not more than 5 inches center to center.

(4) Where the design of guards requires filled material of greater area than

12 square feet, additional frame members shall be provided to maintain panel area within this limit.

(5) All joints of framework shall be made equivalent in strength to the material of the frame.

§ 50-204.180 Disk, shield, and "U" guards.

(a) Disk guard: A disk guard shall consist of a sheet-metal disk not less than No. 22 gauge fastened by "U" bolts or rivets to spokes of pulleys, flywheels, or gears. Where possibility of contact with sharp edges of the disk exists, the edge shall be rolled or wired. In all cases the nuts shall be provided with lock nuts which shall be placed on the unexposed side of the wheel.

(b) Shield guards.

(1) A shield guard shall consist of a frame filled in with wire mesh, expanded, perforated, or solid sheet metal.

(2) If area of shield does not exceed 6 square feet the wire mesh or expanded metal may be fastened in a framework of $\frac{3}{8}$ inch solid rod, $\frac{3}{4}$ inch x $\frac{3}{4}$ inch x $\frac{1}{8}$ inch angle iron or metal construction of equivalent strength.

(3) Metal shields may have edges entirely rolled around a $\frac{3}{8}$ inch solid iron rod. All material of shield guard shall meet the requirements of section 50-204.181.

(c) "U" Guards: A "U" guard consisting of a flat surface with edge members shall be designed to cover the under surface and lower edge of a belt, multiple chain, or rope drive. It shall be constructed of materials specified in table of section 50-204.181 and shall conform to the requirements of sections 50-204.183 and 50-204.184. Edges shall be smooth, and if size of guard requires, these edges shall be reinforced by rolling, wiring, or by binding with angle or flat iron.

§ 50-204.181 Approved materials.

(a) Minimum Requirements. The materials and dimensions specified in this section shall apply to all guards except horizontal overhead belts, rope, cable or chain guards more than 7 feet above floor, or platform. (For the latter, see table following section 50-204.184.)

TABLE OF STANDARD MATERIALS AND DIMENSIONS

Material	Clearance from moving part at all points	Largest mesh or opening allowable	Minimum gauge (U.S. standard) or thickness	Minimum height of guard from floor or platform level
Woven wire	Under 2"	$\frac{3}{8}$ "	No. 16	7'0"
	2'-4"	$\frac{1}{2}$ "	No. 16	7'0"
	Under 4"	$\frac{1}{2}$ "	No. 16	7'0"
	4'-15'	2"	No. 12	7'0"
Expanded metal	Under 4"	$\frac{1}{2}$ "	No. 18	7'0"
	4'-15'	2"	No. 13	7'0"
Perforated metal	Under 4"	$\frac{1}{2}$ "	No. 20	7'0"
	4'-15'	2"	No. 14	7'0"
Sheet metal	Under 4"	$\frac{1}{2}$ "	No. 22	7'0"
	4'-15'	2"	No. 22	7'0"
Wood or metal strip crossed	Under 4"	$\frac{3}{8}$ "	Wood $\frac{3}{4}$ " Metal No. 16	7'0"
	4'-15'	2"	Wood $\frac{3}{4}$ " Metal No. 16	7'0"
Wood or metal strip not crossed	Under 4"	$\frac{1}{2}$ " width	Wood $\frac{3}{4}$ " Metal No. 16	7'0"
	4'-15'	1" width	Wood $\frac{3}{4}$ " Metal No. 16	7'0"
Std. rail	Min. 15" Max. 20"	See Standard for Railings Section 204.185.		

(b) Framework:

(1) Minimum dimensions of material for the framework of all guards except as noted in subparagraph (5) of this paragraph shall be angle iron 1 inch x 1 inch x $\frac{1}{8}$ inch, metal pipe of $\frac{3}{4}$ inch inside diameter or metal construction of equivalent strength.

(2) All guards shall be rigidly braced every 3 feet or fractional part of their height to some fixed part of machinery or building structure. Where guard is exposed to contact with moving equipment additional strength is necessary.

(3) The framework for all guards fastened to floor or working platform and without other support or bracing shall consist of $1\frac{1}{2}$ inch x $1\frac{1}{2}$ inch x $\frac{1}{8}$ inch angle iron, metal pipe or $1\frac{1}{2}$ inch inside diameter or metal construction of equivalent strength. All rectangular guards shall have at least 4 upright frame members each of which shall be carried to the floor and be securely fastened thereto.

(4) Cylindrical guards shall have at least 3 supporting members carried to floor.

(5) Guards thirty inches or less in height and with a total surface not in excess of ten square feet may have a framework of $\frac{3}{8}$ inch solid rod, $\frac{3}{4}$ inch x $\frac{3}{4}$ inch x $\frac{1}{8}$ inch angle or metal construction of equivalent strength. The filling material shall correspond to the requirements of the table contained in paragraph (a) of this section.

(c) The specifications given in paragraphs (a) and (b) of this section are the minimum requirements; where guards are exposed to unusual wear, deterioration or impact, heavier material and construction shall be used to protect amply against the specific hazards involved.

§ 50-204.182 Wood guards.

(a) Wood guards may be used in the woodworking and chemical industries, in industries where the presence of fumes or where manufacturing conditions would cause the rapid deterioration of metal guards; also in construction work and in locations outdoors where extreme cold or extreme heat makes metal guards and railings undesirable. In all other industries, wood guards will not be allowed.

(b) Material and construction.

(1) Wood shall be sound, tough, and free from any loose knots.

(2) Guards shall be made of planed lumber not less than one inch rough board measure and edges and corners rounded off.

(3) Wood guards shall be securely fastened together with wood screws, hard wood dowel pins, bolts, or rivets.

(4) While no definite dimensions are given under this heading for framework or filler materials, wood guards shall be equal in strength and rigidity to metal guards specified in section 50-204.181(a) (b) (c).

(5) For construction of standard wood railing, see section 50-204.185.

§ 50-204.183 Guards for horizontal overhead belts.

(a) Guards for horizontal overhead belts shall run the entire length of the

belt and follow the line of the pulley to the ceiling or be carried to the nearest wall, thus enclosing the belt effectively. Where belts are so located as to make it impracticable to carry the guard to wall or ceiling, construction of the guard shall be such as to enclose completely the top and bottom runs of belt and the face of pulleys. See section 50-204.163 (b) and (c).

(b) The guard and all its supporting members shall be securely fastened to wall or ceiling by gimlet-point lag screws or through bolts. In case of masonry construction, expansion bolts shall be used.

(c) Suitable reinforcement shall be provided for the ceiling rafters or overhead floor beams, where such is necessary, to sustain safely the weight and stress likely to be imposed by the guard. The interior surface of all guards, by which is meant the surface of the guard with which a belt will come in contact, shall be smooth and free from all projections of any character, except where construction demands it; protruding shallow round-head rivets may be used. Overhead belt guards shall be at least one-quarter wider than the belt which they protect, except that this clearance need not in any case exceed 6 inches on each side. Overhead rope drive and block and roller-chain-drive guards shall be not less than 6 inches wider than the drive on each side.

In overhead silent chain-drive guards where the chain is held from lateral displacement on the sprockets, the side clearances required on drives of 20 inch centers or under shall not be less than $\frac{1}{4}$ inch from the nearest moving chain part and on drives of over 20 inch centers a minimum of $\frac{1}{2}$ inch from the nearest moving chain part.

(d) The table following section 50-204.184 gives sizes of materials to be used and general construction of guards for belts 10 inches or more in width. No material for overhead belt guards should be smaller than that specified in this table for belts 10 to 14 inches wide, even if the belt is less than 10 inches in width. However, No. 20 gauge sheet metal may be used as a filler on guards for belts less than 10 inches wide. Expanded metal, because of the sharp edges, shall not be used as a filler in horizontal belt guards.

(e) For clearance between guards and belts, ropes or chains of various center to center dimensions between the shafts, see bottom of table following section 50-204.184.

§ 50-204.184 Guards for horizontal overhead rope and chain drives.

Overhead-rope and chain-drive guard construction shall conform to section 50-204.183 for overhead-belt guard construction of similar width, except that the filler materials shall be of the solid type as shown in table following section 50-204.181(a) unless the fire hazard demands the use of open construction. A side guard member of the same solid filling material shall be carried up in a vertical position 2 inches above the level of the lower run of the rope or chain drive and 2 inches within the periphery

of the pulleys which the guard encloses thus forming a trough. These side filler members shall be reinforced on the edges with $1\frac{1}{2}$ inch x $\frac{1}{4}$ inch flat steel, riveted to the filling material at not greater than 8 inch centers; the reinforcing strip shall be fastened or bolted to all guard supporting members with at least one $\frac{3}{8}$ inch rivet or bolt at each intersection, and the ends shall be secured to the ceiling with lag screws or bolts. The filling materials shall be fastened to the framework of the guard and the filler supports by $\frac{3}{16}$ inch rivets spaced on 4 inch centers. The width of the multiple drive shall be determined by measuring the distance from the outside of the first to the outside of the last rope or chain in the group accommodated by the pulley.

§ 50-204.185 Guard rails and toe boards.

(a) Guard rails shall be 42 inches in height, with mid-rail between top rail and floor.

(b) Posts shall be not more than 8 feet apart; they are to be permanent and substantial, smooth, and free from protruding nails, bolts, and splinters. If made of pipe, the post shall be $1\frac{1}{4}$ inches inside diameter, or larger. If made of metal shapes or bars, their section shall be equal in strength to that of $1\frac{1}{2}$ by $1\frac{1}{2}$ by $\frac{3}{16}$ inch angle iron. If made of wood, the posts shall be 2 x 4 inches or larger. The upper rail shall be 2 x 4 inches or two 1 x 4 strips, one at the top and one at the side of posts. The mid-rail shall be 1 x 4 inches or more. The rails (metal shapes, metal bars, or wood), shall be on that side of the posts which gives the best protection and support. Where panels are fitted with expanded metal or wire mesh as noted in table, section 204.181 the middle rails may be omitted. Where guard is exposed to contact with moving equipment, additional strength may be necessary.

(c) Toe boards shall be 4 inches or more in height, of wood, metal, or of metal grill not exceeding 1 inch mesh.

MISCELLANEOUS MACHINE GUARDING**§ 50-204.190 Lathes and automatic screw machines.**

(a) Chucks and face plates shall be free from projections, and dogs, if used, shall be of the safety type only—circular in shape with no projections beyond the periphery.

(b) Chip guards to catch flying chips, particularly in the case of the high speeds used in the softer metals, shall be provided.

(c) Rotating stock in turret lathes and automatic screw machines shall be completely enclosed in pipe long enough to contain the longest stock used.

(d) Suitable shields and oil catchers shall be provided to prevent slipperiness from oil thrown from the automatic screw machines.

§ 50-204.191 Drill presses.

(a) All projections on the rotating spindle and as much as possible of the spindle itself should be guarded.

(b) Spindle drive belts, when in range of the operator's head or body, shall be guarded to protect the operator from both contact and breakage.

GUARD REQUIREMENTS FOR HORIZONTAL OVERHEAD BELTS, ROPES, AND CHAINS 7 FEET OR MORE ABOVE FLOOR OR PLATFORM

Members	Width			Material
	Over 10" to 14" incl.	Over 14" to 24" incl.	Over 24"	
Framework.....	1½" x 1½" x ¼"	2" x 2" x ⅝"	3" x 3" x ⅜"	Angle iron.
Filler (belt guards).....	1½" x ⅝"	2" x ⅝"	2" x ⅝"	Flat iron.
Filler and vertical side member.....	No. 20 A.W.G.	No. 18 A.W.G.	No. 18 A.W.G.	Solid sheet metal.
Filler supports.....	2" x ⅝" flat iron.	2" x ⅝" flat iron.	2½" x 2½" x ¼" angle.	Flat & Angle.
Guard supports.....	2" x ⅝"	2" x ⅝"	2½" x ⅝"	Flat iron.
FASTENINGS				
Filler supports to framework.....	(2) ⅝"	(2) ⅝"	(3) ½"	Rivets.
Filler flats to supports (belt guards).....	(1) ⅝"	(1) ⅝"	(2) ⅝"	Flush rivets.
Filler to frame and supports (rope and chain guards).....	⅝" rivets spaced.	8" centers on sides and 4" centers on bottom.		
Guard supports to framework.....	(2) ⅝"	(2) ⅝"	(2) ⅝"	Rivets or bolts.
Guard and supports to overhead ceiling.....	¼" x 3½" lag screws or ½" bolts.	⅝" x 4" lag screws or ⅝" bolts.	¾" x 6" lag screws or ¾" bolts.	Lag screws or bolts.
DETAILS—SPACING, ETC.				
Width of guards.....	one-quarter wider than belt, rope, or chain drive.			
Spacing between filler supports.....	20" C. to C.	16" C. to C.	16" C. to C.	
Spacing between filler flat (belt guards).....	2" apart.	2½" apart.	3" apart.	
Spacing between guard supports.....	36" C. to C.	36" C. to C.	36" C. to C.	
OTHER BELT GUARD FILLING PERMITTED				
Sheet metal fastened as in rope and chain guards.....	No. 20 A.W.G.	No. 18 A.W.G.	No. 18 A.W.G.	Solid or perforated.
Woven wire, 2" mesh.....	No. 12 A.W.G.	No. 10 A.W.G.	No. 8 A.W.G.	
CLEARANCE FROM OUTSIDE OF BELT, ROPE, OR CHAIN DRIVE TO GUARD				
Distance center to center of shafts.....	Up to 15' incl. 6"	Over 15' to 25' incl. 10"	Over 25' to 40' incl. 15"	Over 40' 20"
Clearance from belt, rope, or chain to guard.....				

(b) *General requirements for point of operations guarding.* Every point of operation guarding device shall be simple and reliable in construction, application, and adjustment. It shall be permanently attached to the press or the die. It shall not offer any accident hazard in itself.

(1) The device shall be designed and constructed so that it is impossible for the operator to place or permit his hand or fingers to remain within the danger zone created by the movement of the ram.

(2) Care shall be used in the selection of the method of guarding for each particular job. Guards shall be installed, maintained, and adjusted to produce safe operation at each setting of the press.

(3) Guards which are attached to the ram and which move downward so that the operator's hand or fingers might be caught between gate and lower die shall not be used.

(c) *Fixed barrier guard.* (1) A fixed barrier guard is an enclosure to prevent the hands or fingers of the operator from entering the area between the dies. It may be attached to the press or individual guards may be attached to the dies.

(2) There shall be no exposed shear points between the guard and any moving part.

(3) Openings in the guard or between the guard and working surface shall not be greater than those shown in the Table below:

PERMISSIBLE OPENINGS (INCHES)

Distance of opening from nip point:	Maximum width of opening
0½ to 1½	¼
1½ to 2½	⅜
2½ to 3½	½
3½ to 5½	⅝
5½ to 6½	¾
6½ to 7½	⅞
7½ to 8½	1¼

(4) For the portion of the guard between the operator and the die or working area, it is required that ⅝-inch minimum vertical steel rods, vertically slotted material, or shatterproof, non-flammable, transparent material be used. Mesh, or perforated plate shall not be used between the operator and the die.

(5) Any hinged or movable section of a fixed barrier guard shall be connected to an interlocking device that will prevent tripping the press while the section is open.

(d) *Gate guards.* (1) A gate guard is a movable barrier arranged so that it completes the enclosure of the point of operation before the operating clutch can become engaged.

(2) Openings in the barrier of the gate guard shall be not greater than those specified for the openings in fixed barrier guards in section 50-204.195(c) (3). The mechanism of the guard shall be designed so that there will be no positive linkage or other close motion which may trap the hand of the operator.

(3) Gate guards shall include either fixed or movable side enclosures around the die.

§ 50-204.192 Planers and shapers (metal).

(a) The spaces between the ways of planer frames shall be filled in smoothly with heavy sheet metal to eliminate the shear hazard.

(b) Where there is not a 12-inch clearance between a fixed object and the planer table and the work carried on the table, a railing shall be provided between the fixed object and the table and the work on the table to protect workers passing between the fixed object and the planer.

§ 50-204.193 Shears.

(a) Alligator shears shall be guarded by running a heavy U-shaped metal strap horizontally around the moving (upper) jaw with the lower edge of the strap just far enough above the cutting edge of the fixed (lower) jaw to allow the material to be inserted in the shears.

(b) Squaring shears shall be provided with a fixed barrier which clears the top of the table by not more than ⅜ inch plus the minimum thickness of material for which used. Automatic clamps shall be acceptable as guards when cutouts are filled in so that fingers of the operator cannot enter the danger zone.

§ 50-204.194 Guillotine cutters, power-driven.

(a) Power-driven guillotine cutters shall be equipped with a guard or device which will prevent the hands of the workers from entering the zone traveled by the knife while the knife is in motion. This may be a fixed barrier or it may

consist of a two-handed device requiring the simultaneous use of the worker's two hands at points outside the zone of danger.

(b) In addition to the point of operation guard or device described in section 50-204.194(a), the power-driven guillotine cutter shall be provided with an arrangement which will prevent the cutter from making a second stroke until the lever or two-handed device is again used.

§ 50-204.195 Power presses.

(a) *Safeguarding classification.* One or more means of safeguarding the press at the point of operation shall be provided and used on every power press, depending upon the method of feeding, in accordance with the following:

SAFEGUARDING CLASSIFICATION

Method of feeding press	Safeguarding required
Automatic feed:	Fixed barrier guard or gate guard (section 50-204.195 (c), (d))
Automatic roll feed.	
Automatic push, pull or dial feed.	
Semiautomatic feed:	Fixed barrier guard or gate guard (section 50-204.195 (c), (d))
Chute feed (both gravity and follow feed).	
Slide or push feed.	
Sliding dies.	
Dial feed.	
Revolving dies.	
Manual feed.....	Fixed barrier guard or gate guard, two-hand tripping device, or pull-out guard, electronic sweep guard (section 50-204.195 (c), (d), (e), (f), (g), (h))

(4) When the speed of the ram is so slow that an operator might beat the ram on the down stroke after the press has been tripped, the gate guard shall be designed so that the gate remains closed until the ram has completed the down stroke.

(c) *Two-hand tripping device.* (1) Two-hand tripping devices include only those which make it impossible to trip the press without the simultaneous use of both hands outside the danger zone. It shall be designed, located, and arranged so as to prevent tying, wedging, or otherwise securing one handle or button or operating it with any gesture or device and tripping the press while the other hand may be in the danger zone.

(2) On friction-clutch-operated presses, the controls shall be arranged so that if any hand is removed from a control during the down stroke of the ram, it will be instantly stopped.

(3) Where two or more persons are engaged in the operation of a single press, separate two-hand controls shall be provided for each person, except that an auxiliary foot control (air or electric) may be used in lieu of one set of two-hand controls, provided the foot control is located so that the nip point is out of the reach of the operator, but the foot controls shall in no case be less than a distance of 36 inches measured horizontally from the nip point.

(f) *Pull-out guards.* (1) Pull-out guards shall be so constructed as to be attached to the operator's hands or arms and connected to the ram, plunger, or outer slide of the press in such a way that the operator's hands and fingers will be withdrawn from the danger zone before the ram, plunger, or outer slide descends to a hazardous point.

(2) Where the open distance between the top of the work and the lower extremity of the punch is less than 2 inches the multiplying action of this guard shall be such that the hands will be withdrawn a safe distance before this open distance is $\frac{1}{4}$ closed.

(g) *Electronic safety device.* (1) An electronic safety device shall be so designed and installed that when the operator's hand or any part of the body is in the die zone, the press cannot be tripped and if the hand or any part of the body is inserted while the ram is in a downward motion, it will immediately stop the ram.

(2) These guards shall be operated from a circuit wired so that interruption of the electric current will automatically prevent the press from tripping until the current has been restored.

(3) Electronic safety devices shall not be used on positive clutch presses where the ram continues for a complete stroke after each tripping of the press.

(h) *Sweep guards.* (1) Sweep guards may be provided with either single or double sweep arms. The sweep arm, or arms, shall be connected to the ram in such a way as to forcibly sweep the hands of the operator from the die zone as the ram or plunger descends and before there is danger of injury.

(2) Sweep guards shall be so designed and operated that the operator cannot

reach behind the guard in the danger zone before the ram has completed its downward stroke.

(3) The sweep or sweeps shall not offer any hazard of or in themselves by creating a shear hazard between the sweep arm and press tie rods, die straps, or other parts of the press or guard.

(i) *One-hand tripping device.* Whenever a press is set up so as to require tripping the ram or plunger by one hand, additional guarding as specified in section 50-204.195 shall be provided.

(j) *Special hand tools.* Hand tools for placing and removing material shall be such as to permit easy handling of material without the operator's placing a hand in the danger zone. Such tools shall not be accepted in lieu of other guarding as provided in this section.

§ 50-204.196 Foot presses.

Foot presses shall be guarded by one or more of the guards described in section 50-204.195 (a) to (d), inclusive.

(a) *Fixed barrier guards.* Fixed barrier guards shall conform to section 50-204.195 (c).

(b) *Limitation of stroke.* If a foot or kick press is guarded by limitation of the ram stroke, the adjustment must be set and locked securely in position to limit the maximum travel of the ram to $\frac{3}{8}$ inch on each stroke. There shall be no pinching or crushing hazards between other parts of the ram or die shoe.

(c) *Gate guards.* A gate shall be designed to close the opening at the front of the press before the foot lever can be operated.

(d) *Two-hand operation.* Two-hand operations shall conform to section 50-204.195 (e).

(e) *Sweep guards.* Sweep guards shall conform to section 50-204.195 (h).

(f) *Pull-out guards.* Pull-out guards shall conform to section 50-204.195 (f).

(g) *Location.* Foot presses shall not be located in a position which will permit the operating lever to extend into an aisle or passageway.

(h) *Mounting.* Foot presses shall be securely bolted to the floor.

§ 50-204.197 Other power-press safety devices.

(a) *Treadle guard.* A substantial guard shall be placed over the treadle of every foot-operated power press to prevent accidental tripping.

(b) *Foot treadle.* The use of tension springs or counterweights on any treadle shaft or tension springs on any treadle-shaft lever is prohibited.

(c) *Latch on hand-operating lever.* Hand-operated power presses, shall be equipped with a spring latch on the operating lever to prevent accidental or premature tripping.

(d) *Interlocking device.* Each hand-operated power press, if tended by more than one person at one time shall conform to the requirements of section 50-204.195 (e) (1) and (3).

(e) *Single-stroke attachments.* On positive-type clutch presses a single-stroke attachment shall be provided, by which the treadle or operating lever is disconnected after each stroke.

§ 50-204.198 Platen presses.

Platen presses shall be provided with an automatic feed device, an automatic stop device, a guard gate or sweep motion device, or another device, all as defined in this section.

(a) An automatic feed device is one which does not require the operator's hand to be placed between the platen and bed.

(b) An automatic stop device is one which will prevent the platen from closing if the hand or hands of the operator are caught between the platen and the bed.

(c) A guard, gate or sweep motion device, is one which will throw the operator's hands out of the way before the press closes. If the guard is of the type which lifts the hands out of the danger zone, it shall rise at least 4 inches above the platen before the press closes. The guard shall be arranged so that it will prevent a shear between the guard and the top of the platen.

(d) "Another device" is one that will prevent the platen from closing on the operator's hands before they are removed from between the platen and the bed.

§ 50-204.199 Abrasive wheels.

(a) The machine shall be securely mounted on substantial floors, benches, foundations or other adequate structures.

(b) *Guards.* Every stationary abrasive wheel and portable wheel used in stationary position shall be equipped with a hood or band guard strong enough to withstand the shock of a bursting wheel. A guard of this type shall also be used on every portable wheel where the nature of the work will permit.

(c) *Spindle.* The spindle and nut and flange projection, if any, shall be guarded.

(d) *Mountings and fastenings.* Hoods shall be mounted so as to maintain proper alignment with the wheels, and the strength of the fastenings shall exceed the strength of the hood.

(e) *Dust exhaust provisions.* Hoods on machines used for dry grinding and other operations where dust is produced shall have provisions made for connection to an exhaust system.

(f) *Work rests.* Work rests shall be kept adjusted close to the wheel with a maximum distance of $\frac{1}{8}$ inch to prevent the work from being caught between the wheel and the rest.

§ 50-204.200 Revolving drums and cylinders.

Every revolving barrel, drum or other revolving container shall be guarded by an enclosure which is interlocked with the driving mechanism, so that the barrel or drum cannot revolve unless the guard enclosure is in place.

§ 50-204.201 Fans.

When the periphery of the blades of a fan is less than 7 feet above the floor or working level the blades shall be guarded.

WOODWORKING MACHINERY

§ 50-204.203 Circular table saws.

(a) *Guards.* Each circular saw shall be guarded by a hood which shall com-

pletely enclose that portion of the saw above the table and shall be arranged so that the hood will automatically adjust itself to the thickness of, and remain in contact with, the material being cut. Where there is a possibility of contact with a portion of a circular saw beneath or behind the saw table, that portion shall be covered with a guard to prevent accidental contact with the saw.

(b) *Spreaders.* Each circular rip saw shall be furnished with a spreader to prevent material from squeezing the saw or being thrown back on the operator. A spreader need not be used for work which is restricted to grooving, dadoing, or rabbeting.

(c) *Non-kickback fingers or dogs.* Each circular rip saw shall be provided with non-kickback fingers or dogs so located as to oppose the thrust or tendency of the saw to pick up the material or to throw it back toward the operator.

§ 50-204.209 Swing and sliding cut-off saws.

The requirements expressed in this section apply to all swing cut-off saws and to those sliding cut-off saws which are mounted above the table.

(a) *Hood.* Each of the saws to which this section applies shall be provided with a hood that shall completely enclose the upper half of the saw, the arbor end, and the point of operation at all positions of the saw. The hood shall be constructed in such a manner and of such material that it will protect the operator from flying splinters and broken saw teeth. It shall be designed so that it will automatically cover the lower portion of the blade, so that when the saw is returned to the back of the table the hood will rise on top of the fence, and when the saw is moved forward the hood will drop on top of and remain in contact with the table or material being cut.

(b) *Counterweights.* Each of the saws to which this section applies shall be provided with an effective device to return the saw automatically to the back of the table when released at any point in its travel.

(c) *Limit stops.* Limit chains or other equally effective devices shall be provided to prevent the saw from swinging beyond the front or back edges of the table.

(d) *Latches.* A latch or equivalent device shall be provided to prevent the saw from rebounding upon its return to the rear of the table.

§ 50-204.210 Inverted swing cut-off saws (jump saws).

Inverted swing-cut-off saws shall be provided with a hood that will cover the part of the saw that protrudes above the top of the table or above the material being cut. It shall automatically adjust itself to the thickness of, and remain in contact with, the material being cut.

§ 50-204.211 Radial saws.

(a) *Hoods and guards.* The upper hood shall completely enclose the upper portion of the blade down to a point that will include the end of the saw arbor. The upper hood shall be constructed in such a manner and of such material that it will protect the operator

from flying splinters, broken saw teeth, etc., and will deflect sawdust away from the operator. The sides of the lower exposed portion of the blade shall be guarded to the full diameter of the blade by a device that will automatically adjust itself to the thickness of the stock and remain in contact with stock being cut to give maximum protection possible for the operation being performed.

(b) *Spreaders.* When radial saws are used for ripping, a spreader shall be provided meeting the requirements expressed in section 50-204.208 (b).

(c) *Non-kickback fingers or dogs.* Each radial saw used for ripping shall be provided with non-kickback fingers or dogs located on both sides of the saw so as to oppose the thrust or tendency of the saw to pick up the material or to throw it back toward the operator.

(d) *Adjustable stops and return devices.* An adjustable stop shall be provided to prevent the forward travel of the blade beyond the position necessary to complete the cut in repetitive operations.

§ 50-204.212 Portable circular saws.

All portable power-driven saws shall be equipped with guards above and below the base plate or shoe. The upper guard shall cover the saw to the depth of the teeth, except for the arc required to permit the base to be tilted. The lower guard shall cover the saw to the depth of the teeth, except for the minimum arc required to allow proper retraction and contact with the work. When the tool is withdrawn from the work, the lower guard shall automatically and instantly return to covering position.

§ 50-204.213 Band saws and band resaws.

(a) *Enclosing band-saw blades.* All portions of the saw blade shall be enclosed or guarded, except for the working portion of the blade between the bottom of the guide rolls and the table. Band-saw wheels shall be fully encased. The outside periphery of the enclosure shall be solid. The front and back of the band wheels shall be either enclosed by solid material or by wire mesh or perforated metal. Such mesh or perforated metal shall be not less than 0.037 inch (U.S. Gauge No. 20), and the openings shall be not greater than $\frac{3}{8}$ inch. Solid material used for this purpose shall be of an equivalent strength and firmness. The guard for the portion of the blade between the sliding guide and the upper-saw-wheel guard shall protect the operator from the saw blade at the front and outer side. Brakes shall be provided to stop the wheel in case of blade breakage.

(b) *Tension.* Each band-saw machine shall be provided with a tension control device to indicate a proper tension for the standard saws used on the machine.

(c) *Feed rolls.* Feed rolls of band resaws shall be protected with a guard to prevent the hands of the operator from coming in contact with the in-running rolls at any point.

§ 50-204.214 Jointers.

(a) *Point of operation.* (1) Each hand-fed planer and jointer with hori-

zontal head shall be equipped with a cylindrical cutting head, the knife projection of which shall not exceed $\frac{1}{8}$ inch beyond the cylindrical body of the head.

(2) The clearance between the edge of the rear table and the cutter head shall be not more than $\frac{1}{8}$ inch. The table throat opening shall be not more than $2\frac{1}{2}$ inches when tables are set or aligned with each other for zero cut.

(b) *Automatic guards.* (1) Each hand-fed jointer with a horizontal cutting head shall have an automatic guard which will cover all the section of the head on the working side of the fence or gage. The guard shall keep the operator's hand from coming in contact with the revolving knives. The guard shall automatically adjust itself to cover the unused portion of the head and remain in contact with the material at all times.

(2) Each hand-fed jointer with horizontal cutting head shall have a guard which will cover the section of the head beyond of the gage or fence.

(3) Each wood jointer with vertical head shall have either an exhaust hood or other guard so arranged as to enclose completely the revolving head, except for a slot of such width as may be necessary and convenient for the application of material to be jointed.

§ 50-204.215 Wood shapers, hand-fed panel raisers, and similar machines.

(a) The cutting heads of each wood shaper, hand-fed panel raiser, or other similar machine not automatically fed, shall be enclosed with a cage or adjustable guard designed to keep the operator's hands away from the cutting edge. The diameter of circular shaper guards shall be not less than the greatest diameter of the cutter. In no case shall a warning device of leather or other material attached to the spindle be acceptable.

(b) Cylindrical heads shall be used whenever the nature of the work will permit.

(c) All double-spindle shapers shall be provided with a starting and stopping device for each spindle.

§ 50-204.216 Planing, molding, sticking and matching machines.

(a) Each planing, molding, sticking, and matching machine shall have all cutting heads, and saws if used, covered by a metal guard. If such guard is constructed of sheet metal, the material used shall be not less than $\frac{1}{16}$ inch in thickness; and, if cast iron is used, it shall be not less than $\frac{3}{16}$ inch in thickness.

(b) Where an exhaust system is used, the guards shall form part or all of the exhaust hood and shall be constructed of metal of a thickness not less than that specified in paragraph (a) of this section.

(c) Feed rolls shall be guarded by a hood or suitable guard to prevent the hands of the operator from coming in contact with the in-running rolls at any point. The guard shall be fastened to the frame carrying the rolls so as to remain in adjustment for any thickness of stock.

(d) Surfacers or planers used in processing multiple pieces of material simultaneously shall be provided with sec-

tional infeed rolls having sufficient yield in the construction of the sections to provide feeding contact pressure on the stock, over the permissible range of variation in stock thickness specified or for which the machine is designed. In lieu of such yielding sectional rolls, suitable section kickback finger devices shall be provided at the infeed end.

§ 50-204.217 Sanding machines.

(a) *Feed rolls.* Feed rolls of self-feed sanding machines shall be protected with a semi-cylindrical guard to prevent the hands of the operator from coming in contact with the in-running rolls at any point. The guard shall be constructed of heavy material firmly secured to the frame carrying the rolls so as to remain in adjustment for any thickness of stock. The bottom of the guard shall come down to within $\frac{3}{8}$ inch of a plane formed by the bottom or contact face of the feed roll, where it touches the stock.

(b) *Drum sanding machines.* Each drum sanding machine shall have an exhaust hood, or other guard, arranged to enclose the revolving drum, except for that portion of the drum above the table, if a table is used.

(c) *Disk sanding machines.* Each disk sanding machine shall have the exhaust hood, or other guard if no exhaust system is required, arranged to enclose the revolving disk, except for that portion of the disk above the table, if a table is used.

(d) *Belt sanding machines.* Belt sanding machines shall be provided with guards at each nip point where the sanding belt runs on to a pulley. The unused run of the sanding belt shall be guarded against accidental contact.

HOUSEKEEPING

§ 50-204.229 General.

All phases of employment, passageways, storerooms, and service rooms shall be kept clean and orderly and in a sanitary condition.

§ 50-204.230 Floors.

(a) Floors of every workroom shall be maintained in a clean, and, so far as possible, a dry condition. Where wet processes are used, drainage shall be maintained, and false floors, platforms, mats, or other dry standing places should be provided where practicable.

(b) Cleaning and sweeping shall be done in such a manner as to minimize the contamination of the air with dust and, so far as is practicable, should be done outside of working hours.

(c) Every floor, working place, and passageway shall be kept free from protruding nails, splinters, holes, or loose boards.

§ 50-204.231 Flammable materials.

Oily rags, oily waste, waste paper and other flammable and combustible material shall be stored in tightly closed metal containers. Magnesium and other flammable metal scraps shall not be mixed with other scrap. All flammable scrap material of any kind shall be removed from the work areas daily.

§ 50-204.232 Tools and other materials.

Tools, materials, or debris shall not be strewn about in a manner which may cause tripping or other hazards.

§ 50-204.233 Receptacles for waste disposal.

Any receptacle used for decaying solid or liquid waste or refuse shall be so constructed that it does not leak and may be conveniently and thoroughly cleaned, and it shall be maintained in a sanitary condition. Such a receptacle shall be equipped with a tight-fitting cover.

§ 50-204.234 Sweeping and refuse removal.

All sweepings, solid or liquid waste, refuse, and garbage shall be removed in such a manner as to avoid creating a nuisance or menace to health and as often as necessary to maintain the place of employment in a sanitary condition.

TOILET FACILITIES AND WASH ROOMS

§ 50-204.239 Separate toilet for each sex.

Every place of employment shall be provided with adequate toilet facilities which are separate for each sex.

§ 50-204.240 Location.

Toilet facilities shall be provided so as to be readily accessible to all employees. Toilet facilities so located that employees must use more than one floor-to-floor flight of stairs are not considered as readily accessible.

§ 50-204.241 Water closets.

Water closets, or chemical closets or privies where permitted by local law, shall be provided for each sex and shall be in accordance with the following table. The number to be provided for each sex shall in every case be based on the maximum number of persons of that sex employed at any one time at work on the premises for which the facilities are furnished. When persons other than employees are permitted the use of toilet facilities on the premises, a reasonable allowance shall be made for such other persons in computing the minimum number of toilet facilities required.

Number of persons	Minimum number of facilities
1 to 9	1
10 to 24	2
25 to 49	3
50 to 74	4
75 to 100	5
Over 100	(1)

¹ 1 for each additional 30 persons.

Where 10 or more are employed, one water closet less than the number specified in the foregoing may be provided for men for each urinal, except that the number of water closets in such cases may not be reduced to less than two-thirds of the number specified in the foregoing. Two feet of trough urinal shall be considered as equivalent to one individual urinal.

(b) An adequate supply of toilet paper with holder shall be provided for every water closet.

(c) Covered receptacles shall be kept in all toilet rooms used by women.

§ 50-204.242 Construction of toilet rooms.

(a) Each toilet facility (closet) shall occupy a separate compartment, equipped with a door, latch, and clothes hook.

(b) The walls of compartments or partitions between fixtures may be less than the height of room walls, but the top shall not be less than six feet from the floor and the bottom not more than one foot from the floor.

(c) The door to every toilet room shall be fitted with an effective self-closing device, and the entrance to the toilet rooms shall be so screened that the interior of the toilet room is not visible from the workroom.

(d) The floors, walls, ceilings, partitions, and doors of all toilet rooms shall be of a finish that can be easily cleaned.

(e) Toilet rooms, except those in work places accessible to men only, shall be completely enclosed with solid material that is nontransparent from the outside.

§ 50-204.243 Chemical closets and privies.

When chemical closets or privies are permitted by local law they shall be of a type approved by the health authorities having jurisdiction and shall be maintained in a sanitary condition.

§ 50-204.244 Washing facilities.

Adequate facilities for maintaining personal cleanliness shall be provided in every place of employment. These shall be convenient for the employees for whom they are provided and shall be maintained in a sanitary condition.

(a) At least one lavatory (wash basin) with adequate hot and cold water, shall be provided for every 20 employees (men or women) or portion thereof, up to 100 persons, and one lavatory (wash basin) for each additional 25 persons or portion thereof. Twenty-four inches of sink with individual faucet shall be considered as equal to one lavatory. In all instances, a suitable cleansing agent shall be provided at each wash place.

(b) Where employees are exposed to skin contamination by poisonous, infectious, or irritating material, one lavatory supplied with hot and cold water, shall be provided for every 5 employees.

(c) One shower bath with ample supply of hot and cold water from one fixture shall be supplied for every 15 workers, or portion thereof, exposed to excessive heat or to skin contamination by poisonous, infectious, or irritating material.

(d) Individual hand towels, or sections thereof, of cloth or paper, or mechanical apparatus for drying the hands, shall be provided. Proper receptacles or other sanitary means shall be maintained for the disposal of used towels. Towels for common use shall not be provided.

(e) Adequate washing facilities shall be provided in every toilet room or adjacent thereto.

§ 50-204.245 Change rooms.

Separate change or dressing rooms shall be provided for each sex wherever it is the practice to change from street clothes or wherever it is necessary to change because the work performed involves exposure to excessive dirt, heat, fumes, vapor, or moisture. Where change rooms are not provided, facilities shall be furnished for hanging outer garments:

(a) Where employees' work clothes are exposed to contamination by poisonous, infectious, or irritating material, facilities shall be provided in change rooms so that street and work clothes will not be stored in contact with each other.

(b) Where the process in which the worker is engaged is such that his working clothes become wet or have to be washed between shifts, provision shall be made to insure that such clothing is dry before re-use.

§ 50-204.246 Retiring rooms for women.

Where 10 or more women are employed at any one time, at least one retiring room shall be provided.

(a) Where less than 10 women are employed and a retiring room is not furnished, some equivalent space shall be provided which can be properly screened for privacy and made suitable for the use of women employees.

(b) At least one couch or bed shall be provided in every place where women are employed. The number of such beds or couches required shall be as follows:

	Beds
1 to 100	1
100 to 250	2

1 additional bed for each additional 250 women employees. A minimum of 60 square feet per bed shall be provided.

LUNCH ROOMS AND FOOD HANDLING**§ 50-204.251 Location.**

In all places of employment where employees lunch on the premises, an adequate space suitable for that purpose shall be provided for the maximum number of employees who may use such space at one time. Such space shall be separate from any location where there is exposure to toxic materials.

§ 50-204.252 Waste food disposal.

A covered receptacle shall be provided and shall be used by employees for the disposal of all waste food.

§ 50-204.253 Presence of toxic materials.

No employee shall be permitted to store or eat any part of his lunch or other food at any time where there are present any toxic material or other substance that may be injurious to health.

DRINKING WATER**§ 50-204.258 Potable water.**

(a) An adequate supply of potable water, approved as to source and distribution by appropriate authority, shall be provided for drinking, washing and cooking purposes in all places of employment.

(b) In all instances where water is cooled by ice made from non-potable

water the construction of the container shall be such that the ice does not come in direct contact with the water.

(c) Open containers such as barrels, pails, or tanks for drinking water from which the water must be dipped or poured, whether or not they are fitted with a cover, shall not be allowed.

(d) The common drinking cup is prohibited.

(e) Where single service cups are supplied, a sanitary container for the unused cups and a receptacle for disposing of the used cups shall be provided.

§ 50-204.259 Non-potable water.

Outlets for non-potable water, such as water for industrial or fire-fighting purposes only, shall be posted to indicate that the water is unsafe and is not to be used for drinking, washing, or cooking purposes.

MEDICAL SERVICES**§ 50-204.264 Medical services.**

(a) The employer shall assure the ready availability of qualified medical personnel for advice and consultation on plant health problems, for emergency medical services, and for the supervision of first-aid attendants.

(b) In the absence of an infirmary, a person trained to render first aid and a kit containing the following items shall be available at every place of employment.

- 1 Adhesive Plaster $\frac{1}{2}$ " x 5 yd. Roll.
- 1 Adhesive Plaster, 1 x 5 yd. Roll.
- 2 Absorbent Cotton, 2-ounce packages.
- 1 Absorbent Gauze, 1 yd.
- 1 Activol Soap, 2-ounce bottle.
- 100 Adhesive Bandages, 1".
- 1 Aromatic Spirits of Ammonia, 2-ounce bottle.
- 1 Boric Acid Solution, 2-ounce bottle.
- 1 Castor Oil, 2-ounce bottle.
- 12 Compress Bandages, 2".
- 4 Compress Bandages, 4".
- 12 Cotton Wound Applicators.
- 1 Eye Cup.
- 1 Eye Dropper.
- 6 Finger Cots.
- 6 Foil for Burns, $\frac{1}{8}$ oz. tubes.
- 1 Foil for Burns, 2-ounce bottle.
- 6 Gauze Roller Bandages 1" x 6 yds.
- 6 Gauze Roller Bandages 2" x 6 yds.
- 6 Gauze Roller Bandages 3" x 6 yds.
- 10 Gauze Sterilized, 12" x 18".
- 1 Merthiolate, Tincture, 2-ounce bottle.
- 1 Medicine Glass.
- 1 Manual First Aid Instruction.
- 1 Scissors Pair 4" Bandage.
- 1 Tweezers Pair $3\frac{1}{2}$ ".
- 12 Safety Pins.
- 1 Spoon.
- 1 Tourniquet.
- 2 Triangular Bandages 40".
- 6 Wood Splints for Fractures.
- 12 Wood Tongue Depressors.

EYE PROTECTION**§ 50-204.269 General requirement.**

Eye protection shall be provided where persons are exposed to any hazard which may cause injury to the eyes from the following operations: chipping, calking, coarse grinding, riveting, sledging, scaling, light grinding, stone dressing, spot welding, woodworking, metal-working, babbitting, casting, dipping in hot metal baths, handling of acids and caustics, electric arc welding, oxyacetylene and oxyhydrogen welding and cutting,

furnace tending, and irradiation with ultraviolet light.

§ 50-204.270 First-aid for chemical burns.

Where workers' eyes may be exposed to injurious chemical materials such as acids, caustics, etc., suitable facilities for quick drenching or flushing of the eyes shall be provided within the workroom, for immediate emergency use.

ENVIRONMENTAL CONDITIONS**§ 50-204.275 Toxic gases, vapors, fumes, dusts, and mists.**

No employee shall be exposed to any of the gases, vapors, mists, dusts, or fumes on the list in section 50-204.276 which exceed the limits there stated when applied to him on an average basis for an eight hour workday, unless he is protected therefrom by respiration equipment approved for the purpose by the United States Bureau of Mines of the United States Department of the Interior and operated in accordance with the recommendations of its manufacturer. Exposures without such equipment which exceed such limits temporarily, without exceeding them on a daily average basis, or which involve more than one such toxic substance, regardless of the degree of its concentration, are also hazardous unless they are undertaken in strict conformity with prior written approval of a qualified industrial hygienist who has studied the particular circumstances of exposure and the toxic substances and concentrations involved.

§ 50-204.276 Threshold limit values.

Gases and vapors—Substance	Parts per million parts of air by volume	Milligrams per cubic meter of air
Acetaldehyde	200	360
Acetic acid	10	25
Acetic anhydride	5	20
Acetone	1,000	2,400
Acrolein	5	1.2
Acrylonitrile	20	45
Allyl alcohol	5	12
Allyl chloride	5	15
Allyl propyl disulfide	2	12
Ammonia	100	70
Amyl acetate	200	1,050
Amyl alcohol (isoamyl alcohol)	100	360
Aniline	5	19
Arsine	0.05	2
Benzene (benzol)	25	80
Benzyl chloride	1	5
Bromine	1	7
Butadiene (1,3-butadiene)	1,000	2,200
Butanone (methyl ethyl ketone)	250	740
Butyl acetate (n-butyl acetate)	200	950
Butyl alcohol	100	300
Butylamine	5	15
Butyl cellosolve (2-butoxyethanol)	50	240
Carbon dioxide	5,000	9,000
Carbon disulfide	20	60
Carbon monoxide	100	110
Carbon tetrachloride	25	160
Cellosolve (2-ethoxyethanol)	200	740
Cellosolve acetate (2-ethoxyethyl acetate)	100	540
Chlorine	1	3
Chlorine trifluoride	1	4
Chlorobenzene (monochlorobenzene)	75	350
Chloroform (trichloromethane)	100	490
1-Chloro-1-nitropropane	20	100
Chloropierin	1	7
Chloroprene (2-chloro-1,3-butadiene)	25	90
Cresol (all isomers)	5	22
Cyclohexane	400	1,400
Cyclohexanol	100	410

Gases and vapors—Substance	Parts per million parts of air by volume	Milligrams per cubic meter of air	Gases and vapors—Substance	Parts per million parts of air by volume	Milligrams per cubic meter of air
Cyclohexanone.....	100	400	Perchloroethylene (tetrachloroethylene).....	200	1,350
Cyclohexene.....	400	1,350	Phenol.....	5	19
Cyclopropane.....	400	690	Phenylhydrazine.....	5	22
Decaborane.....	.05	.3	Phosgene (carbonyl chloride).....	1	4
Diacetone alcohol (4-hydroxy-4-methyl-2-pentanone).....	50	240	Phosphine.....	.05	.07
Diborane.....	.1	.1	Phosphorus trichloride.....	.5	3
o-Dichlorobenzene.....	50	300	Propyl acetate.....	200	840
Dichlorodifluoromethane.....	1,000	4,350	Propyl alcohol (isopropyl alcohol).....	400	980
1,1-Dichloroethane.....	100	400	Propyl ether (isopropyl ether).....	500	2,100
1,2-Dichloroethane (ethylene dichloride).....	100	400	Propylene dichloride (1,2-dichloropropane).....	75	350
1,2-Dichloroethylene.....	200	790	Propylene imine.....	25	60
Dichloroethyl ether.....	15	90	Propylene oxide.....	100	240
Dichloromonofluoromethane.....	1,000	4,200	Pyridine.....	10	30
1,1-Dichloro-1-nitroethane.....	10	60	Quinone.....	.1	.4
Dichlorotetrafluoroethane.....	1,000	7,000	Stibine.....	.1	.5
Diethylamine.....	25	75	Stoddard solvent.....	500	2,900
Difluorodibromomethane.....	100	860	Styrene monomer (phenylethylene).....	100	420
Diisobutyl ketone.....	50	290	Sulfur dioxide.....	5	13
Dimethylaniline (N-dimethylaniline).....	5	25	Sulfur hexafluoride.....	1,000	6,000
Dimethylsulfate.....	1	5	Sulfur monochloride.....	1	6
Dioxane (diethylene dioxide).....	100	360	Sulfur pentafluoride.....	.025	.25
Ethyl acetate.....	400	1,400	Tertiary butyl alcohol.....	100	300
Ethyl acrylate.....	25	100	p-Tertiarybutyltoluene.....	10	60
Ethyl alcohol (ethanol).....	1,000	1,900	1,1,2,2-Tetrachloroethane.....	5	35
Ethylamine.....	25	45	Tetrahydrofuran.....	200	590
Ethylbenzene.....	200	870	Tetranitromethane.....	1	8
Ethyl bromide.....	200	890	Toluene (toluol).....	200	750
Ethyl chloride.....	1,000	2,600	o-Toluidine.....	5	22
Ethyl ether.....	400	1,200	Trichloroethylene.....	200	1,050
Ethyl formate.....	100	300	Triethylamine.....	25	100
Ethylsilicate.....	100	850	Trifluoromonomethane.....	1,000	6,100
Ethylene chlorohydrin.....	5	16	Turpentine.....	100	560
Ethylene diamine.....	10	30	Vinyl chloride (chloroethylene).....	500	1,300
Ethylene dibromide (1,2-dibromoethane).....	25	190	Vinyl toluene.....	100	480
Ethylene imine.....	5	9	Xylene (xyol).....	200	870
Ethylene oxide.....	50	90	Xylidine.....	5	25
Fluorine.....	.1	.2			
Fluorotrichloromethane.....	1,000	5,600			
Formaldehyde.....	5	6			
Furfural.....	5	20			
Gasoline.....	500	2,000			
Heptane (n-heptane).....	500	2,000			
Hexane (n-hexane).....	500	1,800			
Hexanone (methyl butyl ketone).....	100	410			
Hexone (methyl isobutyl ketone).....	100	410			
Hydrazine.....	1	1.3			
Hydrogen bromide.....	5	17			
Hydrogen chloride.....	5	7			
Hydrogen cyanide.....	10	11			
Hydrogen fluoride.....	3	2			
Hydrogen peroxide, 90%.....	1	1.4			
Hydrogen selenide.....	.05	.2			
Hydrogen sulfide.....	20	30			
Iodine.....	.1	1			
Isophorone.....	25	140			
Isopropylamine.....	5	12			
Mesityl oxide.....	25	100			
Methyl acetate.....	200	610			
Methyl acetylene.....	1,000	1,650			
Methyl acrylate.....	10	35			
Methyl alcohol (methanol).....	200	260			
Methyl bromide.....	20	80			
Methyl cellosolve (2-methoxyethanol).....	25	80			
Methyl cellosolve acetate (ethylene glycol monomethyl ether acetate).....	25	120			
Methyl chloride.....	100	210			
Methylal (dimethoxymethane).....	1,000	3,100			
Methyl chloroform (1,1,1-trichloroethane).....	500	2,700			
Methylcyclohexane.....	500	2,000			
Methylcyclohexanol.....	100	470			
Methylcyclohexanone.....	100	460			
Methyl formate.....	100	250			
Methyl isobutyl carbinol (Methyl amyl alcohol).....	25	100			
Methyl styrene.....	100	480			
Methylene chloride (dichloromethane).....	500	1,750			
Monomethyl aniline.....	2	9			
Naphtha (coal tar).....	200	800			
Naphtha (petroleum).....	500	2,000			
Nickel carbonyl.....	.001	.007			
Nitric acid.....	5	25			
p-Nitroaniline.....	1	6			
Nitrobenzene.....	1	5			
Nitroethane.....	100	310			
Nitrogen dioxide.....	5	9			
Nitroglycerin.....	.5	5			
Nitromethane.....	100	250			
2-Nitropropane.....	50	180			
Nitrotoluene.....	5	30			
Octane.....	500	2,350			
Ozone.....	.1	.2			
Perdichlorobenzene.....	75	450			
Pentane.....	1,000	2,950			
Pentanone (methyl propyl ketone).....	200	700			

TOXIC DUSTS, FUMES, AND MISTS

Substance	Milligrams per cubic meter of air
Aldrin (1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8-dimethanonaphthalene).....	0.25
Ammate (ammonium sulfamate).....	15
Antimony.....	.5
ANTU (alpha naphthyl thiourea).....	.3
Arsenic.....	.5
Barium.....	.5
Beryllium.....	2ym3
Cadmium oxide fume.....	.1
Calcium arsenate.....	.1
Chlordane (1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-4,7-methanoinane).....	2
Chlorinated camphene, 80%.....	.5
Chlorinated diphenyl oxide.....	.5
Chlorodiphenyl (42% chlorine).....	1
Chlorodiphenyl (54% chlorine).....	.5
Chromic acid and chromates (as CrO ₃).....	.1
Crag herbicide (sodium 2-[sodium 2-[2,4-dichlorophenoxy] ethanol hydrogen sulfate).....	15
Cyanide (as CN).....	5
2,4-D (2,4-dichlorophenoxyacetic acid).....	10
DDT (2,2-bis [p-chlorophenyl]-1,1,1-trichloroethane).....	1
Dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-1,4,5,8-dimethanonaphthalene).....	.25
Dinitrobenzene.....	1
Dinitrotoluene.....	1.5
Dinitro-o-cresol.....	.2
EPN (O-ethyl O-p-nitrophenyl thionobenzenephosphonate).....	.5
Ferbam (ferric dimethyl dithiocarbamate).....	15
Ferrovandium dust.....	1
Fluoride.....	2.5
Hydroquinone.....	2
Iron oxide fume.....	15
Lead.....	.2
Lead arsenate.....	.15
Lindane (hexachlorocyclohexane, gamma isomer).....	.5

TOXIC DUSTS, FUMES, AND MISTS—Con.

Substance	Milligrams per cubic meter of air
Magnesium oxide fume.....	15
Malathion (O,O-dimethyl dithiophosphate of diethyl mercaptosuccinate).....	15
Manganese.....	6
Mercury.....	.1
Mercury (organic compounds).....	.01
Methoxychlor (2,2-di-p-methoxyphenyl-1,1,1-trichloroethane).....	15
Molybdenum:	
soluble compounds.....	5
insoluble compounds.....	15
Nicotine.....	.5
Parathion (O,O-diethyl O-p-nitrophenyl thiophosphate).....	.1
Pentachloronaphthalene.....	.5
Pentachlorophenol.....	.5
Phosphorus (yellow).....	.1
Phosphorus pentachloride.....	1
Phosphorus pentasulfide.....	1
Picric acid.....	.1
Pyrethrum.....	2
Rotenone.....	5
Selenium compounds (as Se).....	.1
Sodium hydroxide.....	2
Sodium fluoroacetate (1080).....	.1
Strychnine.....	.15
Sulfuric acid.....	1
TEDP (tetraethyl dithionopyrophosphate).....	.2
TEPP (tetraethyl pyrophosphate).....	.05
Tellurium.....	.1
Tetryl (2,4,5-trinitrophenylmethylnitramine).....	1.5
Thiram (tetramethyl thiuram disulfide).....	5
Thallium (soluble compounds).....	.1
Titanium dioxide.....	15
Trichloronaphthalene.....	5
Trinitrotoluene.....	1.5
Uranium:	
soluble compounds.....	.05
insoluble compounds.....	.25
Vanadium:	
V ₂ O ₅ dust.....	.5
V ₂ O ₅ fume.....	.1
Warfarin (3-[acetonylbenzyl]-4-hydroxycoumarin).....	.5
Zinc oxide fumes.....	15
Zirconium compounds (as Zr).....	5

MINERAL DUSTS

Substance	Millions of particles per cubic meter of air
Aluminum oxide.....	50
Asbestos.....	5
Dust (nuisance, no free silica).....	50
Mica (below 5% free silica).....	20
Portland cement.....	50
Silica:	
High (above 50% free SiO ₂).....	5
Medium (5 to 50% free SiO ₂).....	20
Low (below 5% free SiO ₂).....	50
Silicon carbide.....	20
Soapstone (below 5% free SiO ₂).....	20
Talc.....	20

VENTILATION

§ 50-204.288 General ventilation and temperature requirements.

(a) Outside air shall be provided to all workrooms at the rate of 15 cubic feet per minute per person, or one and one-half air changes per hour, whichever is greater. In most instances, leakage through walls, doors, and windows will produce at least one and one-half air changes per hour.

(b) A minimum air temperature of 60° F. should be maintained at all workrooms where work of a strenuous nature is performed, and a minimum air tem-

perature of 65° F. should be maintained in all other workrooms unless prohibited by process requirements.

§ 50-204.289 Local exhaust ventilation.

(a) Every local exhaust ventilation system shall produce and maintain a movement of air toward the opening, sufficient to prevent escape of contaminant to the workroom during working hours, beyond the limits shown in section 50-204.276.

(b) Air flow through branch and main ducts shall be sufficient to transport the contaminant through the system without settling.

(c) Piping shall be located so as to be accessible for inspection and maintenance.

(d) Air flow equipment including hoods, pipes, fans, motors, and collectors shall be effectively grounded.

(e) Two or more operations involving more than one substance shall not be permitted to be connected to the same exhaust system when a combination of the substances removed may constitute a fire hazard, an explosion hazard, or otherwise dangerous mixture.

(f) Those processes or operations using or generating flammable dusts, gases, fumes, vapors, mists, fibers or other impurities shall be completely protected from all sources of ignition.

(g) The capacity of an exhaust system shall be calculated on the basis of all hoods, booths, and enclosures connected to the system being open, except where the system is so interlocked that only a portion of it can be operated at a given time, in which case the capacity should be calculated on the basis that all the hoods in the group requiring the greatest volume rate of exhaust are open.

(h) Suitable air inlets shall be provided for replacement of exhausted air.

(i) Exhaust systems handling dusts and discharging to the outer air shall be provided with suitable air-cleaning devices to remove air contaminants prior to the discharge to the outer air, except under unusual circumstances.

(j) The discharge from any exhaust system shall be such that no air contamination therefrom will enter any window, door, or other opening of any work space in quantities sufficient to create a health hazard to such space or create a nuisance to surrounding areas.

(k) Collected materials shall be removed at intervals frequent enough to insure that the exhaust system will meet the requirements of section 50-204.288 (a), at all times.

NOISE

§ 50-204.293 Noise.

Noise shall be reasonably reduced or eliminated as a means of preventing fatigue or accidents.

PERSONAL PROTECTIVE EQUIPMENT

§ 50-204.298 Personal protective equipment.

Personal protective equipment or protective shields or barriers shall be provided and maintained in usable condition whenever substances, radiation, or mechanical irritants are encountered in a manner capable of causing injury or impairment in function of any part of the body through skin or mucous membrane absorption.

BITUMINOUS COAL AND LIGNITE MINES

§ 50-204.300 Federal Mine Safety Code.

The Federal Mine Safety Code for Bituminous Coal and Lignite Mines of the United States, Part I—Underground Mines, and Part II—Strip Mines, as published by the Bureau of Mines, United States Department of Interior is hereby adopted by reference as the safety and health standard required for observance in the bituminous coal and lignite mining to which section 1(e) of the Walsh-Healey Public Contracts Act has application.

Signed at Washington, D.C., this 12th day of December 1960.

JAMES P. MITCHELL,
Secretary of Labor.

[F.R. Doc. 60-11689; Filed, Dec. 27, 1960;
8:45 a.m.]

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